

Whoever commits negligent use of a deadly weapon is guilty of a petty misdemeanor.

**30-7-7. Unlawful sale, possession or transportation of explosives.** Unlawful sale, possession or transportation of explosives consists of:

**A.** knowingly selling or possessing any explosive or causing such explosive to be transported without having plainly marked in large letters in a conspicuous place on the box or package containing such explosive the name and explosive character thereof and the date of manufacture. For the purpose of this subsection, the term "explosive" is as defined in Section 2 [30-7-18 NMSA 1978] of the Explosives Act, but shall not include:

(1) explosive materials in medicine and medicinal agents in the forms prescribed by the official United States pharmacopoeia or the national formulary;

(2) small arms ammunition and components thereof;

(3) commercially manufactured black powder in quantities not to exceed fifty pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches and friction primers intended to be used solely for sporting, recreational or cultural purposes as defined in Section 921(a)(16) [§ 921(a)(4)] of Title 18 of the United States Code, or in antique devices as exempted from the term "destructive device" in Section 921(a)(4) [§ 921(a)(16)] of Title 18 of the United States Code; or

(4) explosive materials transported in compliance with the regulations of the United States department of transportation and agencies thereof; or

**B.** knowingly transporting or taking any explosive upon or into any vehicle belonging to a common carrier transporting passengers. For the purpose of this subsection, the term "explosives" is as defined in Section 2 of the Explosives Act, but shall not include:

(1) explosive materials in medicines and medicinal agents in the forms prescribed by the official United States pharmacopoeia or the national formulary;

(2) small arms ammunition or components thereof; or

(3) explosive materials transported in compliance with the regulations of the United States department of transportation and agencies thereof.

Whoever commits unlawful sale, possession or transportation of explosives as set forth in Subsection A of this section is guilty of a petty misdemeanor. Whoever commits unlawful transportation of explosives as set forth in Subsection B of this section is guilty of a fourth degree felony.

**30-7-9. Firearms; sale and purchase.** Residents of states contiguous to New Mexico may purchase firearms in New Mexico. Residents of New Mexico may purchase firearms in states contiguous to New Mexico.

**30-7-16. Firearms or destructive devices; receipt, transportation or possession by a felon; penalty.**

**A.** It is unlawful for a felon to receive, transport or possess any firearm or destructive device in this state.

**B.** Any person violating the provisions of this section shall be guilty of a fourth degree felony and shall be sentenced in accordance with the provisions of the Criminal Sentencing Act [Chapter 31, Article 18 NMSA 1978].

**C.** As used in this section:

(1) **"destructive device"** means:

(a) any explosive, incendiary or poison gas: 1) bomb; 2) grenade; 3) rocket having a propellant charge of more than four ounces; 4) missile having an explosive or incendiary charge of more than one-fourth ounce; 5) mine; or 6) similar device;

(b) any type of weapon by whatever name known that will, or that may be readily converted to, expel a projectile by the action of an explosive or other propellant, the barrel or barrels of which have a bore of more than one-half inch in diameter, except a shotgun or shotgun shell that is generally recognized as particularly suitable for sporting purposes; and

(c) any combination of parts either designed or intended for use in converting any device into a destructive device as defined in this paragraph and from which a destructive device may be readily assembled.

The term **"destructive device"** does not include any device that is neither designed nor redesigned for use as a weapon or any device, although originally designed for use as a weapon, that is redesigned for use as a signaling, pyrotechnic, line throwing, safety or similar device;

(2) **"felon"** means a person convicted of a felony offense by a court of the United States or of any state or political subdivision thereof and:

(a) less than ten years have passed since the person completed serving his sentence or period of probation for the felony conviction, whichever is later; and

(b) the person has not been pardoned for the felony conviction by the proper authority; and

(c) the person has not received a deferred sentence; and

(3) **"firearm"** means any weapon that will or is designed to or may readily be converted to expel a projectile by the action of an explosion; the frame or receiver of any such weapon; or any firearm muffler or firearm silencer. "Firearm" includes any handgun, rifle or shotgun.

[Current through 2001 Regular Session, including 2001 N.M. Laws 89 (SB 272) & 219 (HB 277)]

## City of Albuquerque Code of Ordinances

### Chapter 12. Criminal Code Article 2. Offenses Relating to Public Order and Safety

**12-2-8 Unlawfully Carrying Deadly Weapons.**

(A) Unlawfully carrying a deadly weapon consists of carrying a deadly weapon concealed in a manner making it not readily visible on the person or in close proximity thereto, so that the weapon is readily accessible for use, ...

(B) **DEADLY WEAPON**, in this section means any firearm or any weapon which is capable of producing death or great bodily harm ...

(C) Nothing in this section shall be construed to prevent the carrying of any unloaded firearm.

**12-2-9 Negligent Use of Weapons.**

(A) Negligent use of a weapon consists of either: ...

(2) Carrying or having within one's reach or immediate grasp, a deadly weapon while under the influence of an intoxicating liquor or other drug; or

(3) Endangering the safety of another or his property by handling or using a firearm or other deadly weapon in a negligent manner; or

(4) Selling, loaning or furnishing any deadly weapon to a person with knowledge that the person is under the influence of alcohol or other drug or that the person is incompetent.

(B) **Exception for peace officers.** The provisions set forth above shall not be construed to forbid peace officers from carrying, wearing or discharging such weapons as shall be necessary in the proper discharge of their duties.

**12-2-10 Unlawful Possession, Transfer or Sale of Weapons. ...**

(B) Unlawful sale of a deadly weapon consists of giving, selling, trading, bartering, or exchanging for anything of value any deadly weapon or ammunition for any firearm to any person under the age of 18 years; provided, however, that nothing herein contained shall be construed to prevent any parent or legal guardian from purchasing such a weapon or ammunition for his child or ward.

[City of Albuquerque Code of Ordinances current as of Nov. 2001 (through Ordinance 9-2001)]

## Las Cruces Municipal Code

### Chapter 19. Offenses and Miscellaneous Provisions Division 3. Weapons

**19-164. Prohibited use of weapons and firearms.**

(a) It shall be unlawful for any person to: ...

(4) Carry a firearm while under the influence of an intoxicant or narcotic.

(5) Endanger the safety or security of another person or his property by handling or using a firearm or other deadly weapon in a negligent manner.

[Las Cruces Municipal Code current through Aug. 21, 2001]

## NEW YORK N.Y. PENAL CODE

**396-ee. Sale of certain weapons; locking devices therefor.**

(1) No person, firm or corporation engaged in the retail business of selling rifles, shotguns or firearms, as such terms are defined in section 265.00 of the penal law, shall sell, deliver or

transfer any such rifle, shotgun or firearm to another person unless the transferee is provided at the time of sale, delivery or transfer with a gun locking device and a label containing the quoted language specified in subdivision two of this section is either affixed to such rifle, shotgun or

### General Business Law

#### Article 26. Miscellaneous

firearm or placed in the container in which such rifle, shotgun or firearm is sold, delivered or transferred. For the purposes of this section, the term **"gun locking device"** shall mean an integrated design feature or an attachable accessory that is resistant to tampering and is effective in preventing the discharge of such rifle, shotgun or firearm by a person who does not have access to the key, combination or other mechanism used to disengage the device. The division of state police shall develop and promulgate rules and regulations setting forth the specific devices or the minimum standards and criteria therefor which constitute an effective gun locking device.

(2) Every person, firm or corporation engaged in the retail business of selling rifles, shotguns or firearms, as such terms are defined in section 265.00 of the penal law, shall, in the place where such rifles, shotguns or firearms are displayed or transferred to the purchaser, post a notice conspicuously stating in bold print that: "The use of a locking device or safety lock is only one aspect of responsible firearm storage.

For increased safety firearms should be stored unloaded and locked in a location that is both separate from their ammunition and inaccessible to children and any other unauthorized person."

(3) Any person, firm or corporation who fails to comply with the provisions of this section shall be guilty of a violation punishable as provided in the penal law. Any person, firm, or corporation who fails to comply with the provisions of this section after having been previously convicted of a violation of this section shall be guilty of a class A misdemeanor, punishable as provided in the penal law.

#### **396-ff. Pistol and revolver ballistic identification databank.**

(1) For the purposes of this section, the following terms shall have the following meanings:

(a) **"Manufacturer"** means any person, firm or corporation possessing a valid federal license that permits such person, firm or corporation to engage in the business of manufacturing pistols or revolvers or ammunition therefor for the purpose of sale or distribution.

(b) **"Shell casing"** means that part of ammunition capable of being used in a pistol or revolver that contains the primer and propellant powder to discharge the bullet or projectile.

(2) On and after March first, two thousand one, any manufacturer that ships, transports or delivers a pistol or revolver to any person in this state shall, in accordance with rules and regulations promulgated by the division of state police, include in the container with such pistol or revolver a separate sealed container that encloses:

(a) a shell casing of a bullet or projectile discharged from such pistol or revolver; and

(b) any additional information that identifies such pistol or revolver and shell casing as required by such rules and regulations.

(3) A gunsmith or dealer in firearms licensed in this state shall, within ten days of the receipt of any pistol or revolver from a manufacturer that fails to comply with the provisions of this section, either (a) return such pistol or revolver to such manufacturer, or (b) notify the division of state police of such noncompliance and thereafter obtain a substitute sealed container through participation in a program operated by the state police as provided in subdivision four of this section.

(4) The division of state police shall no later than October first, two thousand, promulgate rules and regulations for the operation of a program which provides a gunsmith or a dealer in firearms licensed in this state with a sealed con-

tainer enclosing the items specified in subdivision two of this section. The program shall at a minimum:

(a) be operational by January first, two thousand one;

(b) operate in at least five regional locations within the state; and

(c) specify procedures by which such gunsmith or dealer is to deliver a pistol or revolver to the regional program location closest to his or her place of business for testing and prompt return of such pistol or revolver.

(5) On and after March first, two thousand one, a gunsmith or dealer in firearms licensed in this state shall, within ten days of delivering to any person a pistol or revolver received by such gunsmith or dealer in firearms on or after such date, forward to the division of state police, along with the original transaction report required by subdivision twelve of section 400.00 of the penal law, the sealed container enclosing the shell casing from such pistol or revolver either (a) received from the manufacturer, or (b) obtained through participation in the program operated by the division of state police in accordance with subdivision four of this section.

(6) Upon receipt of the sealed container, the division of state police shall cause to be entered in an automated electronic databank pertinent data and other ballistic information relevant to identification of the shell casing and to the pistol or revolver from which it was discharged. The automated electronic databank will be operated and maintained by the division of state police, in accordance with its rules and regulations adopted after consultation with the Federal Bureau of Investigation and the United States Department of Treasury, Bureau of Alcohol, Tobacco and Firearms to ensure compatibility with national ballistic technology.

(7) Any person, firm or corporation who knowingly violates any of the provisions of this section shall be guilty of a violation, punishable as provided in the penal law. Any person, firm or corporation who knowingly violates any of the provisions of this section after having been previously convicted of a violation of this section shall be guilty of a class A misdemeanor, punishable as provided in the penal law.

#### **399-r. Sale of paint pellet guns.**

(a) No person, firm, or corporation shall sell or offer to sell a paint pellet gun to any person under sixteen years of age.

(b) For purposes of this subdivision, the term **"paint pellet gun"** means a gun, air gun, pistol, rifle, or like device in appearance or function, capable of and designed for discharging and propelling through the air to a target a small quantity of paint enclosed within a pellet or pellet-like device or capsule or capsule-like device that breaks upon impact with the target, overspreading the target with paint.

(c) Any person, firm, or corporation who violates the provisions of this section shall be subject to a civil penalty of not more than five hundred dollars.

#### **399-s. Posting of notice when air rifles or guns are sold.**

1. In each mercantile establishment in this state where air rifles or air guns are sold, a notice must be posted in a conspicuous place, and in close proximity to any air rifle or air gun displayed for sale, that in legible format states: "Except under supervision at a shooting range or for hunting pursuant to license, Section 265.05 of the New York State Penal Law makes it unlawful for any person under the age of sixteen years to possess an air rifle or air gun."

2. Any violation of this section shall be punishable by a civil penalty not to exceed one hundred dollars.

### **Article 39-B. Imitation Weapons**

#### **871. Definitions.**

1. **"Firearm"** as used in this section shall have the same meaning as that term is defined by subdivision three of section 265.00 of the penal law and shall include machine guns, rifles and shotguns as those terms are defined by subdivisions one, eleven and twelve, respectively, of section 265.00 of the penal law.

2. **"Imitation weapon"** means any device or object made of plastic, wood, metal or any other material which substantially duplicates or can reasonably be perceived to be an actual firearm, air rifle, pellet gun, or "B-B" gun; unless such imitation weapon (a) is colored other than black, blue, silver or aluminum, (b) is marked with a non-removable orange stripe which is at least one inch in width and runs the entire length of the barrel on each side and the front end of the barrel, and (c) has a barrel at least one inch in diameter that is closed for a distance of not less than one-half inch from the front-end of its barrel with the same material of which the imitation weapon is made. "Imitation weapon" does not include any nonfiring replica of an antique firearm, the original of which was designed, manufactured and produced prior to eighteen hundred ninety-eight.

872. **Prohibitions.** No person, firm, corporation or agent or employee thereof shall import, manufacture, sell, hold for sale or distribute within the state any imitation weapon unless such device is imported, manufactured, sold, held for sale and distributed:

1. solely for subsequent transportation in interstate commerce; or

2. solely for lawful use in a theatrical production, including a motion picture, television or stage production.

873. **Enforcement.** Whenever the attorney general shall believe from evidence satisfactory to him that any person, firm, corporation or association or agent or employee thereof has violated any provision of this article, he may bring an action or special proceeding in the supreme court for a judgment enjoining the continuance of such violation and for a civil penalty of not more than one thousand dollars for each violation. If it shall appear to the satisfaction of the court or justice that the defendant has violated any provision of this article, no proof shall be required that any person has been injured thereby nor that the defendant knowingly or intentionally violated such provision. In such action preliminary relief may be granted under article sixty-three of the civil practice law and rules. In connection with any such proposed application, the attorney general is authorized to take proof, issue subpoenas and administer oaths in the manner provided in the civil practice law and rules.

### **Article 39-DD. Sale of Firearms, Rifles or Shotguns at Gun Shows**

895. **Definitions.** For the purposes of this article:

1. **"Gun show"** means an event sponsored, whether for profit or not, by an individual, national, state or local organization, association or other entity devoted to the collection, competitive use, sporting use, or any other legal use of firearms, rifles or shotguns, or an event at which (a) twenty percent or more of the total number of

exhibitors are firearm exhibitors or (b) ten or more firearm exhibitors are participating or (c) a total of twenty-five or more pistols or revolvers are offered for sale or transfer or (d) a total of fifty or more firearms, rifles or shotguns are offered for sale or transfer. The term gun show shall include any building, structure or facility where firearms, rifles or shotguns are offered for sale or transfer and any grounds used in connection with the event.

**2. "Firearm exhibitor"** means any person, firm, partnership, corporation or company that exhibits, sells, offers for sale, transfers, or exchanges firearms, rifles or shotguns at a gun show.

**3. "Gun show operator"** means any person, firm, partnership, corporation or company that organizes, produces, sponsors or operates a gun show.

**4. "Firearm"** has the same meaning as that term is defined in 18 U.S.C. 921(a)(3), but shall not include an "antique firearm" as that term is defined in 18 U.S.C. 921(a)(16).

**5. "Rifle"** has the same meaning as that term is defined in 18 U.S.C. 921(a)(7).

**6. "Shotgun"** has the same meaning as that term is defined in 18 U.S.C. 921(a)(5).

#### **896. Operation of a gun show.**

**1.** A gun show operator shall:

(a) at all times during such show conspicuously post and maintain signs stating "A National Instant Criminal Background Check must be completed prior to all firearm sales or transfers, including sales or transfers of rifles or shotguns". Signs must be posted at all entrances to the gun show, at all places where admission tickets to the gun show are sold and not less than four additional locations within the grounds of the gun show;

(b) notify all firearm exhibitors in writing that a national instant criminal background check must be completed prior to all firearm sales or transfers, including sales or transfers of rifles or shotguns; and

(c) provide access at the gun show to a firearm dealer licensed under federal law who is authorized to perform a national instant criminal background check where the seller or transferor of a firearm, rifle or shotgun is not authorized to conduct such a check by (i) requiring firearm exhibitors who are firearm dealers licensed under federal law and who are authorized to conduct a national instant criminal background check to provide such a check at cost or (ii) designating a specific location at the gun show where a firearm dealer licensed under federal law who is authorized to conduct a national instant criminal background check will be present to perform such a check at cost. Any firearm dealer licensed under federal law who performs a national instant criminal background check pursuant to this paragraph shall provide the seller or transferor of the firearm, rifle or shotgun with a copy of the United States Department of Treasury, Bureau of Alcohol, Tobacco and Firearms Form ATF F 4473 and such dealer shall maintain such form and make such form available for inspection by law enforcement agencies for a period of ten years thereafter.

**2.** Whenever the attorney general shall believe from evidence satisfactory to him or her that a gun show operator has violated any of the provisions of this section, the attorney general may bring an action or special proceeding in the supreme court for a judgment enjoining the continuance of such violation and for a civil penalty in an amount not to exceed ten thousand dollars. If it shall appear to the satisfaction of the court or justice that the defendant has violated

any provisions of this section, no proof shall be required that any person has been injured thereby nor that the defendant intentionally violated such provision. In such action preliminary relief may be granted under article sixty-three of the civil practice law and rules. In connection with any such proposed application, the attorney general is authorized to take proof, issue subpoenas and administer oaths in the manner provided in the civil practice law and rules.

#### **897. Sale of a firearm, rifle or shotgun at a gun show.**

**1.** A national instant criminal background check shall be conducted and no person shall sell or transfer a firearm, rifle or shotgun at a gun show, except in accordance with the provisions of 18 U.S.C. 922(t).

**2.** No person shall offer or agree to sell or transfer a firearm, rifle or shotgun to another person at a gun show and transfer or deliver such firearm, rifle or shotgun to such person or person acting on his or her behalf thereafter at a location other than the gun show for the purpose of evading or avoiding compliance with 18 U.S.C. 922(t).

**3.** Any person who knowingly violates any of the provisions of this section shall be guilty of a class A misdemeanor punishable as provided for in the penal law.

### **Penal Law**

#### **Article 265. Firearms and Other Dangerous Weapons**

**265.00. Definitions.** As used in this article and in article four hundred, the following terms shall mean and include:

**1. "Machine-gun"** means a weapon of any description, irrespective of size, by whatever name known, loaded or unloaded, from which a number of shots or bullets may be rapidly or automatically discharged from a magazine with one continuous pull of the trigger and includes a sub-machine gun.

**2. "Firearm silencer"** means any instrument, attachment, weapon or appliance for causing the firing of any gun, revolver, pistol or other firearms to be silent, or intended to lessen or muffle the noise of the firing of any gun, revolver, pistol or other firearms.

**3. "Firearm"** means (a) any pistol or revolver; or (b) a shotgun having one or more barrels less than eighteen inches in length; or (c) a rifle having one or more barrels less than sixteen inches in length; or (d) any weapon made from a shotgun or rifle whether by alteration, modification, or otherwise if such weapon as altered, modified, or otherwise has an overall length of less than twenty-six inches; or (e) an assault weapon. For the purpose of this subdivision the length of the barrel on a shotgun or rifle shall be determined by measuring the distance between the muzzle and the face of the bolt, breech, or breechlock when closed and when the shotgun or rifle is cocked; the overall length of a weapon made from a shotgun or rifle is the distance between the extreme ends of the weapon measured along a line parallel to the center line of the bore. Firearm does not include an antique firearm. ...

**6. "Dispose of"** means to dispose of, give, give away, lease-loan, keep for sale, offer, offer for sale, sell, transfer and otherwise dispose of.

**7. "Deface"** means to remove, deface, cover, alter or destroy the manufacturer's serial number or any other distinguishing number or identification mark.

**8. "Gunsmith"** means any person, firm, partnership, corporation or company who engages in the business of repairing, altering, assembling, manufacturing, cleaning, polishing, engraving or trueing, or who performs any mechanical operation on, any firearm, large capacity ammunition feeding device or machine-gun.

**9. "Dealer in firearms"** means any person, firm, partnership, corporation or company who engages in the business of purchasing, selling, keeping for sale, loaning, leasing, or in any manner disposing of, any assault weapon, large capacity ammunition feeding device, pistol or revolver.

**10. "Licensing officer"** means in the city of New York the police commissioner of that city; in the county of Nassau the commissioner of police of that county; in the county of Suffolk the sheriff of that county except in the towns of Babylon, Brookhaven, Huntington, Islip and Smithtown, the commissioner of police of that county; for the purposes of section 400.01 of this chapter the superintendent of state police; and elsewhere in the state a judge or justice of a court of record having his office in the county of issuance.

**11. "Rifle"** means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

**12. "Shotgun"** means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger. ...

**14. "Antique firearm"** means: Any unloaded muzzle loading pistol or revolver with a matchlock, flintlock, percussion cap, or similar type of ignition system, or a pistol or revolver which uses fixed cartridges which are no longer available in the ordinary channels of commercial trade. ...

**15. "Loaded firearm"** means any firearm loaded with ammunition or any firearm which is possessed by one who, at the same time, possesses a quantity of ammunition which may be used to discharge such firearm.

**15-a. "Electronic dart gun"** means any device designed primarily as a weapon, the purpose of which is to momentarily stun, knock out or paralyze a person by passing an electrical shock to such person by means of a dart or projectile. ...

**16. "Certified not suitable to possess a self-defense spray device, a rifle or shotgun"** means that the director or physician in charge of any hospital or institution for mental illness, public or private, has certified to the superintendent of state police or to any organized police department of a county, city, town or village of this state, that a person who has been judicially adjudicated incompetent, or who has been confined to such institution for mental illness pursuant to judicial authority, is not suitable to possess a self-defense spray device, as defined in section 265.20 of this article, or a rifle or shotgun.

**17. "Serious offense"** means

(a) any of the following offenses defined in the former penal law as in force and effect immediately prior to September first, nineteen hundred sixty-seven: illegally using, carrying or possessing a pistol or other dangerous weapon; making or possessing burglar's instruments; buying or

receiving stolen property; unlawful entry of a building; aiding escape from prison; that kind of disorderly conduct defined in subdivisions six and eight of section seven hundred twenty-two of such former penal law; violations of sections four hundred eighty-three, four hundred eighty-three-b, four hundred eighty-four-h and article one hundred six of such former penal law; that kind of sodomy or rape which was designated as a misdemeanor; violation of section seventeen hundred forty-seven-d and seventeen hundred forty-seven-e of such former penal law; any violation of any provision of article thirty-three of the public health law relating to narcotic drugs which was defined as a misdemeanor by section seventeen hundred fifty-one-a of such former penal law, and any violation of any provision of article thirty-three-A of the public health law relating to depressant and stimulant drugs which was defined as a misdemeanor by section seventeen hundred forty-seven-b of such former penal law.

(b) [See also par. (b) below.] any of the following offenses defined in the penal law: illegally using, carrying or possessing a pistol or other dangerous weapon; possession of burglar's tools; criminal possession of stolen property in the third degree; escape in the third degree; jostling; fraudulent accosting; that kind of loitering defined in subdivision three of section 240.35; endangering the welfare of a child; the offenses defined in article two hundred thirty-five; issuing abortifacient articles; permitting prostitution; promoting prostitution in the third degree; stalking in the fourth degree; stalking in the third degree; the offenses defined in article one hundred thirty; the offenses defined in article two hundred twenty.

(b) [See also par. (b) above.] any of the following offenses defined in the penal law: illegally using, carrying or possessing a pistol or other dangerous weapon; possession of burglar's tools; criminal possession of stolen property in the third degree; escape in the third degree; jostling; fraudulent accosting; that kind of loitering defined in subdivision three of section 240.35; endangering the welfare of a child; the offenses defined in article two hundred thirty-five; issuing abortifacient articles; permitting prostitution; promoting prostitution in the third degree; stalking in the third degree; stalking in the fourth degree; the offenses defined in article one hundred thirty; the offenses defined in article two hundred twenty.

**18. "Armor piercing ammunition"** means any ammunition capable of being used in pistols or revolvers containing a projectile or projectile core, or a projectile or projectile core for use in such ammunition, that is constructed entirely (excluding the presence of traces of other substances) from one or a combination of any of the following: tungsten alloys, steel, iron, brass, bronze, beryllium copper, or uranium.

**19. "Duly authorized instructor"** means (a) a duly commissioned officer of the United States army, navy, marine corps or coast guard, or of the national guard of the state of New York; or (b) a duly qualified adult citizen of the United States who has been granted a certificate as an instructor in small arms practice issued by the United States army, navy or marine corps, or by the adjutant general of this state, or by the national rifle association of America, a not-for-profit corporation duly organized under the laws of this state; or (c) by a person duly qualified and designated by the department of environmental conservation under paragraph d of subdivision six of section 11-0713 of the environmental conservation law as its agent in the giving of

instruction and the making of certifications of qualification in responsible hunting practices.

**20. "Disguised gun"** means any weapon or device capable of being concealed on the person from which a shot can be discharged through the energy of an explosive and is designed and intended to appear to be something other than a gun.

**21. "Semiautomatic"** means any repeating rifle, shotgun or pistol, regardless of barrel or overall length, which utilizes a portion of the energy of a firing cartridge or shell to extract the fired cartridge case or spent shell and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge or shell.

**22. "Assault weapon"** means

(a) a semiautomatic rifle that has an ability to accept a detachable magazine and has at least two of the following characteristics:

- (i) a folding or telescoping stock;
- (ii) a pistol grip that protrudes conspicuously beneath the action of the weapon;
- (iii) a bayonet mount;
- (iv) a flash suppressor or threaded barrel designed to accommodate a flash suppressor;
- (v) a grenade launcher; or

(b) a semiautomatic shotgun that has at least two of the following characteristics:

- (i) a folding or telescoping stock;
- (ii) a pistol grip that protrudes conspicuously beneath the action of the weapon;
- (iii) a fixed magazine capacity in excess of five rounds;
- (iv) an ability to accept a detachable magazine; or

(c) a semiautomatic pistol that has an ability to accept a detachable magazine and has at least two of the following characteristics:

- (i) an ammunition magazine that attaches to the pistol outside of the pistol grip;
- (ii) a threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip, or silencer;
- (iii) a shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the firearm with the nontrigger hand without being burned;
- (iv) a manufactured weight of fifty ounces or more when the pistol is unloaded;

(v) a semiautomatic version of an automatic rifle, shotgun or firearm; or

(d) any of the weapons, or functioning frames or receivers of such weapons, or copies or duplicates of such weapons, in any caliber, known as:

- (i) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models);
- (ii) Action Arms Israeli Military Industries UZI and Galil;
- (iii) Beretta Ar70 (SC-70);
- (iv) Colt AR-15;
- (v) Fabrique National FN/FAL, FN/LAR, and FNC;
- (vi) SWD M-10, M-11, M-11/9, and M-12;
- (vii) Steyr AUG;
- (viii) INTRATEC TEC-9, TEC-DC9 and TEC-22; and

(ix) revolving cylinder shotguns, such as (or similar to) the Street Sweeper and Striker 12;

(e) provided, however, that such term does not include:

- (i) any rifle, shotgun or pistol that (A) is manually operated by bolt, pump, lever or slide action; (B) has been rendered permanently inoperable; or (C) is an antique firearm as defined in 18 U.S.C. 921(a)(16);

(ii) a semiautomatic rifle that cannot accept a detachable magazine that holds more than five rounds of ammunition;

(iii) a semiautomatic shotgun that cannot hold more than five rounds of ammunition in a fixed or detachable magazine;

(iv) a rifle, shotgun or pistol, or a replica or a duplicate thereof, specified in Appendix A to section 922 of 18 U.S.C. as such weapon was manufactured on October first, nineteen hundred ninety-three. The mere fact that a weapon is not listed in Appendix A shall not be construed to mean that such weapon is an assault weapon; or

(v) a semiautomatic rifle, a semiautomatic shotgun or a semiautomatic pistol or any of the weapons defined in paragraph (d) of this subdivision lawfully possessed prior to September fourteenth, nineteen hundred ninety-four.

**23. "Large capacity ammunition feeding device"** means a magazine, belt, drum, feed strip, or similar device, manufactured after September thirteenth, nineteen hundred ninety-four, that has a capacity of, or that can be readily restored or converted to accept, more than ten rounds of ammunition; provided, however, that such term does not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition.

**265.01. Criminal possession of a weapon in the fourth degree.** A person is guilty of criminal possession of a weapon in the fourth degree when:

(1) He possesses any firearm, electronic dart gun, electronic stun gun, gravity knife, switchblade knife, pilum ballistic knife, metal knuckle knife, cane sword, billy, blackjack, bludgeon, metal knuckles, chuka stick, sand bag, sandclub, wrist-brace type slingshot or slungshot, shirken or "Kung Fu star"; or

(2) He possesses any dagger, dangerous knife, dirk, razor, stiletto, imitation pistol, or any other dangerous or deadly instrument or weapon with intent to use the same unlawfully against another; or

(3) He knowingly has in his possession a rifle, shotgun or firearm in or upon a building or grounds, used for educational purposes, of any school, college or university, except the forestry lands, wherever located, owned and maintained by the State University of New York college of environmental science and forestry, without the written authorization of such educational institution; or

(4) He possesses a rifle or shotgun and has been convicted of a felony or serious offense; or

(5) He possesses any dangerous or deadly weapon and is not a citizen of the United States; or

(6) He is a person who has been certified not suitable to possess a rifle or shotgun, as defined in subdivision sixteen of section 265.00, and refuses to yield possession of such rifle or shotgun upon the demand of a police officer. Whenever a person is certified not suitable to possess a rifle or shotgun, a member of the police department to which such certification is made, or of the state police, shall forthwith seize any rifle or shotgun possessed by such person. A rifle or shotgun seized as herein provided shall not be destroyed, but shall be delivered to the headquarters of such police department, or state police, and there retained until the aforesaid certificate has been rescinded by the director or physician in charge, or other disposition of such rifle or shotgun has been ordered or authorized by a court of competent jurisdiction.

(7) He knowingly possesses a bullet containing an explosive substance designed to detonate upon impact.

(8) He possesses any armor piercing ammunition with intent to use the same unlawfully against another.

Criminal possession of a weapon in the fourth degree is a class A misdemeanor.

**265.02. Criminal possession of a weapon in the third degree.** A person is guilty of criminal possession of a weapon in the third degree when:

(1) He commits the crime of criminal possession of a weapon in the fourth degree as defined in subdivision one, two, three or five of section 265.01, and has been previously convicted of any crime; or

(2) He possesses any explosive or incendiary bomb, bombshell, firearm silencer, machine-gun or any other firearm or weapon simulating a machine-gun and which is adaptable for such use; or

(3) He knowingly has in his possession a machine-gun, firearm, rifle or shotgun which has been defaced for the purpose of concealment or prevention of the detection of a crime or misrepresenting the identity of such machine-gun, firearm, rifle or shotgun; or

(4) Such person possesses any loaded firearm. Such possession shall not, except as provided in subdivision one or seven, constitute a violation of this section if such possession takes place in such person's home or place of business; or

(5)(i) Such person possesses twenty or more firearms; or (ii) such person possesses a firearm and has been previously convicted of a felony or a class A misdemeanor defined in this chapter within the five years immediately preceding the commission of the offense and such possession did not take place in the person's home or place of business; or

(6) Such person knowingly possesses any disguised gun; or

(7) Such person possesses an assault weapon; or

(8) Such person possesses a large capacity ammunition feeding device.

Criminal possession of a weapon in the third degree is a class D felony.

**265.03. Criminal possession of a weapon in the second degree.** A person is guilty of criminal possession of a weapon in the second degree when, with intent to use the same unlawfully against another:

(1) He possesses a machine-gun; or

(2) He possesses a loaded firearm; or

(3) He possesses a disguised gun.

Criminal possession of a weapon in the second degree is a class C felony.

**265.04. Criminal possession of a dangerous weapon in the first degree.** A person is guilty of criminal possession of a dangerous weapon in the first degree when he possesses any explosive substance with intent to use the same unlawfully against the person or property of another.

Criminal possession of a weapon in the first degree is a class B felony.

**265.05. Unlawful possession of weapons by persons under sixteen.** It shall be unlawful for any person under the age of sixteen to possess any air-gun, spring-gun or other instrument or weapon in which the propelling force is a spring or air, or any gun or any instrument or weapon in or upon which any loaded or blank cartridges may be used, or any loaded or blank cartridges or ammunition therefor, or any dangerous knife; provided that the possession of rifle or shotgun or ammunition therefor by the holder of a hunting license or permit issued pursuant to article eleven of the environmental

conservation law and used in accordance with said law shall not be governed by this section.

A person who violates the provisions of this section shall be adjudged a juvenile delinquent.

**265.06. Unlawful possession of a weapon upon school grounds.** It shall be unlawful for any person age sixteen or older to knowingly possess any air-gun, spring-gun or other instrument or weapon in which the propelling force is a spring, air, piston or CO2 cartridge in or upon a building or grounds, used for educational purposes, of any school, college or university, without the written authorization of such educational institution. Unlawful possession of a weapon upon school grounds is a violation.

**265.08. Criminal use of a firearm in the second degree.** A person is guilty of criminal use of a firearm in the second degree when he commits any class C violent felony offense as defined in paragraph (b) of subdivision one of section 70.02 and he either:

(1) possesses a deadly weapon, if the weapon is a loaded weapon from which a shot, readily capable of producing death or other serious injury may be discharged; or

(2) displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm.

Criminal use of a firearm in the second degree is a class C felony.

**265.09. Criminal use of a firearm in the first degree.**

(1) A person is guilty of criminal use of a firearm in the first degree when he commits any class B violent felony offense as defined in paragraph (a) of subdivision one of section 70.02 and he either:

(a) possesses a deadly weapon, if the weapon is a loaded weapon from which a shot, readily capable of producing death or other serious injury may be discharged; or

(b) displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm.

Criminal use of a firearm in the first degree is a class B felony.

(2) **Sentencing.** Notwithstanding any other provision of law to the contrary, when a person is convicted of criminal use of a firearm in the first degree as defined in subdivision one of this section, the court shall impose an additional consecutive sentence of five years to the minimum term of an indeterminate sentence imposed on the underlying class B violent felony offense where the person convicted of such crime displays a loaded weapon from which a shot, readily capable of producing death or other serious injury may be discharged, in furtherance of the commission of such crime, provided, however, that such additional sentence shall not be imposed if the court, having regard to the nature and circumstances of the crime and to the history and character of the defendant, finds on the record that such additional consecutive sentence would be unduly harsh and that not imposing such sentence would be consistent with the public safety and would not deprecate the seriousness of the crime. Notwithstanding any other provision of law to the contrary, the aggregate of the five year consecutive term imposed pursuant to this subdivision and the minimum term of the indeterminate sentence imposed on the underlying class B violent felony shall constitute the new aggregate minimum term of imprisonment, and a person subject to such term shall be required to serve the entire aggregate minimum term and shall not be eligible for release on parole or conditional release during such term. This subdivision shall

not apply where the defendant's criminal liability for displaying a loaded weapon from which a shot, readily capable of producing death or other serious injury may be discharged, in furtherance of the commission of crime is based on the conduct of another pursuant to section 20.00 of the penal law.

**265.10. Manufacture, transport, disposition and defacement of weapons and dangerous instruments and appliances.**

1. Any person who manufactures or causes to be manufactured any machine-gun, assault weapon, large capacity ammunition feeding device or disguised gun is guilty of a class D felony. Any person who manufactures or causes to be manufactured any switchblade knife, gravity knife, pilum ballistic knife, metal knuckle knife, billy, blackjack, bludgeon, metal knuckles, Kung Fu star, chuka stick, sandbag, sandclub or slungshot is guilty of a class A misdemeanor.

2. Any person who transports or ships any machine-gun, firearm silencer, assault weapon or large capacity ammunition feeding device or disguised gun, or who transports or ships as merchandise five or more firearms, is guilty of a class D felony. Any person who transports or ships as merchandise any firearm, other than an assault weapon, switchblade knife, gravity knife, pilum ballistic knife, billy, blackjack, bludgeon, metal knuckles, Kung Fu star, chuka stick, sandbag or slungshot is guilty of a class A misdemeanor.

3. Any person who disposes of any machine-gun, assault weapon, large capacity ammunition feeding device or firearm silencer is guilty of a class D felony. Any person who knowingly buys, receives, disposes of, or conceals a machine-gun, firearm, large capacity ammunition feeding device, rifle or shotgun which has been defaced for the purpose of concealment or prevention of the detection of a crime or misrepresenting the identity of such machine-gun, firearm, large capacity ammunition feeding device, rifle or shotgun is guilty of a class D felony.

4. Any person who disposes of any of the weapons, instruments or appliances specified in subdivision one of section 265.01, except a firearm, is guilty of a class A misdemeanor, and he is guilty of a class D felony if he has previously been convicted of any crime.

5. Any person who disposes of any of the weapons, instruments, appliances or substances specified in section 265.05 to any other person under the age of sixteen years is guilty of a class A misdemeanor.

6. Any person who willfully defaces any machine-gun, large capacity ammunition feeding device or firearm is guilty of a class D felony.

7. Any person, other than a wholesale dealer, or gunsmith or dealer in firearms duly licensed pursuant to section 400.00, lawfully in possession of a firearm, who disposes of the same without first notifying in writing the licensing officer in the city of New York and counties of Nassau and Suffolk and elsewhere in the state the executive department, division of state police, Albany, is guilty of a class A misdemeanor.

**265.11. Criminal sale of a firearm in the third degree.** A person is guilty of criminal sale of a firearm in the third degree when he is not authorized pursuant to law to possess a firearm and he unlawfully either:

(1) sells, exchanges, gives or disposes of a firearm or large capacity ammunition feeding device to another person; or

(2) possesses a firearm with the intent to sell it.

Criminal sale of a firearm in the third degree is a class D felony.

**265.12. Criminal sale of a firearm in the second degree.** A person is guilty of criminal sale of a firearm in the second degree when he unlawfully sells, exchanges, gives or disposes of to another ten or more firearms.

Criminal sale of a firearm in the second degree is a class C felony.

**265.13. Criminal sale of a firearm in the first degree.** A person is guilty of a criminal sale of a firearm in the first degree when he unlawfully sells, exchanges, gives or disposes of to another twenty or more firearms.

Criminal sale of a firearm in the first degree is a class B felony.

**265.14. Criminal sale of a firearm with the aid of a minor.** A person over the age of eighteen years of age is guilty of criminal sale of a weapon with the aid of a minor when a person under sixteen years of age knowingly and unlawfully sells, exchanges, gives or disposes of a firearm in violation of this article, and such person over the age of eighteen years of age, acting with the mental culpability required for the commission thereof, solicits, requests, commands, importunes or intentionally aids such person under sixteen years of age to engage in such conduct.

Criminal sale of a firearm with the aid of a minor is a class C felony.

**265.15. Presumptions of possession, unlawful intent and defacement.**

1. The presence in any room, dwelling, structure or vehicle of any machine-gun is presumptive evidence of its unlawful possession by all persons occupying the place where such machine-gun is found.

2. The presence in any stolen vehicle of any weapon, instrument, appliance or substance specified in sections 265.01, 265.02, 265.03, 265.04 and 265.05 is presumptive evidence of its possession by all persons occupying such vehicle at the time such weapon, instrument, appliance or substance is found.

3. The presence in an automobile, other than a stolen one or a public omnibus, of any firearm, large capacity ammunition feeding device, defaced firearm, defaced rifle or shotgun, defaced large capacity ammunition feeding device, firearm silencer, explosive or incendiary bomb, bombshell, gravity knife, switchblade knife, pilum ballistic knife, metal knuckle knife, dagger, dirk, stiletto, billy, blackjack, metal knuckles, chuka stick, sandbag, sandclub or slungshot is presumptive evidence of its possession by all persons occupying such automobile at the time such weapon, instrument or appliance is found, except under the following circumstances: (a) if such weapon, instrument or appliance is found upon the person of one of the occupants therein; (b) if such weapon, instrument or appliance is found in an automobile which is being operated for hire by a duly licensed driver in the due, lawful and proper pursuit of his or her trade, then such presumption shall not apply to the driver; or (c) if the weapon so found is a pistol or revolver and one of the occupants, not present under duress, has in his possession a valid license to have and carry concealed the same.

4. The possession by any person of the substance as specified in section 265.04 is presumptive evidence of possessing such substance with intent to use the same unlawfully against the person or property of another if such person is not licensed or otherwise authorized to possess such substance. The possession by any person of any dagger, dirk, stiletto, dangerous knife or any other weapon, instrument, appliance or substance designed, made or adapted for use primarily as a weapon, is

presumptive evidence of intent to use the same unlawfully against another.

5. The possession by any person of a defaced machine-gun, firearm, rifle or shotgun is presumptive evidence that such person defaced the same.

6. The possession of five or more firearms by any person is presumptive evidence that such person possessed the firearms with the intent to sell same.

**265.16. Criminal sale of a firearm to a minor.** A person is guilty of criminal sale of a firearm to a minor when he is not authorized pursuant to law to possess a firearm and he unlawfully sells, exchanges, gives or disposes of a firearm to another person who is or reasonably appears to be less than nineteen years of age who is not licensed pursuant to law to possess a firearm.

Criminal sale of a firearm to a minor is a class C felony.

**265.17. Criminal purchase of a weapon.** A person is guilty of criminal purchase of a weapon when:

1. Knowing that he or she is prohibited by law from possessing a firearm, rifle or shotgun because of a prior conviction or because of some other disability which would render him or her ineligible to lawfully possess a firearm, rifle or shotgun in this state, such person attempts to purchase a firearm, rifle or shotgun from another person; or

2. Knowing that it would be unlawful for another person to possess a firearm, rifle or shotgun, he or she purchases a firearm, rifle or shotgun for, on behalf of, or for the use of such other person.

Criminal purchase of a weapon is a class A misdemeanor.

**265.20. Exemptions.**

a. Sections 265.01, 265.02, 265.03, 265.04, 265.05, 265.10, 265.11, 265.12, 265.13, 265.15 and 270.05 shall not apply to:

1. Possession of any of the weapons, instruments, appliances or substances specified in sections 265.01, 265.02, 265.03, 265.04, 265.05 and 270.05 by the following:

(a) Persons in the military service of the state of New York when duly authorized by regulations issued by the adjutant general to possess the same.

(b) Police officers as defined in subdivision thirty-four of section 1.20 of the criminal procedure law.

(c) Peace officers as defined by section 2.10 of the criminal procedure law.

(d) Persons in the military or other service of the United States, in pursuit of official duty or when duly authorized by federal law, regulation or order to possess the same.

(e) Persons employed in fulfilling defense contracts with the government of the United States or agencies thereof when possession of the same is necessary for manufacture, transport, installation and testing under the requirements of such contract.

(f) A person voluntarily surrendering such weapon, instrument, appliance or substance, provided that such surrender shall be made to the superintendent of the division of state police or a member thereof designated by such superintendent, or to the sheriff of the county in which such person resides, or in the county of Nassau or in the towns of Babylon, Brookhaven, Huntington, Islip and Smithtown in the county of Suffolk to the commissioner of police or a member of the police department thereof designated by such commissioner, or if such person resides in a city, town other than one named in this

subparagraph, or village to the police commissioner or head of the police force or department thereof or to a member of the force or department designated by such commissioner or head; and provided, further, that the same shall be surrendered by such person in accordance with such terms and conditions as may be established by such superintendent, sheriff, police force or department. Nothing in this paragraph shall be construed as granting immunity from prosecution for any crime or offense except that of unlawful possession of such weapons, instruments, appliances or substances surrendered as herein provided. A person who possesses any such weapon, instrument, appliance or substance as an executor or administrator or any other lawful possessor of such property of a decedent may continue to possess such property for a period not over fifteen days. If such property is not lawfully disposed of within such period the possessor shall deliver it to an appropriate official described in this paragraph or such property may be delivered to the superintendent of state police. Such officer shall hold it and shall thereafter deliver it on the written request of such executor, administrator or other lawful possessor of such property to a named person, provided such named person is licensed to or is otherwise lawfully permitted to possess the same. If no request to deliver the property is received by such official within two years of the delivery of such property, such official shall dispose of it in accordance with the provisions of section 400.05 of this chapter.

2. Possession of a machine-gun, firearm, large capacity ammunition feeding device, switchblade knife, gravity knife, pilum ballistic knife, billy or blackjack by a warden, superintendent, headkeeper or deputy of a state prison, penitentiary, workhouse, county jail or other institution for the detention of persons convicted or accused of crime or detained as witnesses in criminal cases, in pursuit of official duty or when duly authorized by regulation or order to possess the same.

3. Possession of a pistol or revolver by a person to whom a license therefor has been issued as provided under section 400.00 or 400.01 of this chapter; provided, that such a license shall not preclude a conviction for the offense defined in subdivision three of section 265.01 of this article.

4. Possession of a rifle, shotgun or longbow for use while hunting, trapping or fishing, by a person, not a citizen of the United States, carrying a valid license issued pursuant to section 11-0713 of the environmental conservation law.

5. Possession of a rifle or shotgun by a person who has been convicted as specified in subdivision four of section 265.01 to whom a certificate of good conduct has been issued pursuant to section seven hundred three-b of the correction law.

6. Possession of a switchblade or gravity knife for use while hunting, trapping or fishing by a person carrying a valid license issued to him pursuant to section 11-0713 of the environmental conservation law.

7. Possession, at an indoor or outdoor shooting range for the purpose of loading and firing, of a rifle or shotgun, the propelling force of which is gunpowder by a person under sixteen years of age but not under twelve, under the immediate supervision, guidance and instruction of (a) a duly commissioned officer of the United States army, navy, air force, marine corps or coast guard, or of the national guard of the state of New York; or (b) a duly qualified adult citizen of

the United States who has been granted a certificate as an instructor in small arms practice issued by the United States army, navy, air force or marine corps, or by the adjutant general of this state, or by the national rifle association of America, a not-for-profit corporation duly organized under the laws of this state; or (c) a parent, guardian, or a person over the age of eighteen designated in writing by such parent or guardian who shall have a certificate of qualification in responsible hunting, including safety, ethics, and landowner relations-hunter relations, issued or honored by the department of environmental conservation; or (d) an agent of the department of environmental conservation appointed to conduct courses in responsible hunting practices pursuant to article eleven of the environmental conservation law.

**7-a.** Possession and use, at an indoor or outdoor pistol range located in or on premises owned or occupied by a duly incorporated organization organized for conservation purposes or to foster proficiency in small arms or at a target pistol shooting competition under the auspices of or approved by the national rifle association for the purpose of loading and firing the same, by a person duly licensed to possess a pistol or revolver pursuant to section 400.00 or 400.01 of this chapter of a pistol or revolver duly so licensed to another person who is present at the time.

**7-b.** Possession and use, at an indoor or outdoor pistol range located in or on premises owned or occupied by a duly incorporated organization organized for conservation purposes or to foster proficiency in small arms or at a target pistol shooting competition under the auspices of or approved by the national rifle association for the purpose of loading and firing the same, by a person who has applied for a license to possess a pistol or revolver and pre-license possession of same pursuant to section 400.00 or 400.01 of this chapter, who has not been previously denied a license, been previously convicted of a felony or serious offense, and who does not appear to be, or pose a threat to be, a danger to himself or to others, and who has been approved for possession and use herein in accordance with section 400.00 or 400.01 of this chapter; provided however, that such possession shall be of a pistol or revolver duly licensed to and shall be used under the supervision, guidance and instruction of, a person specified in paragraph seven of this subdivision and provided further that such possession and use be within the jurisdiction of the licensing officer with whom the person has made application therefor or within the jurisdiction of the superintendent of state police in the case of a retired sworn member of the division of state police who has made an application pursuant to section 400.01 of this chapter.

**7-c.** Possession for the purpose of loading and firing, of a rifle, pistol or shotgun, the propelling force of which may be either air, compressed gas or springs, by a person under sixteen years of age but not under twelve, under the immediate supervision, guidance and instruction of (a) a duly commissioned officer of the United States army, navy, marine corps or coast guard, or of the national guard of the state of New York; or (b) a duly qualified adult citizen of the United States who has been granted a certificate as an instructor in small arms practice issued by the United States army, navy or marine corps, or by the adjutant general of this state, or by the national rifle association of America, a not-for-profit corporation duly organized under the laws of this state; or (c) a parent, guardian, or a

person over the age of eighteen designated in writing by such parent or guardian who shall have a certificate of qualification in responsible hunting, including safety, ethics, and landowner relations-hunter relations, issued or honored by the department of environmental conservation.

**7-d.** Possession, at an indoor or outdoor shooting range for the purpose of loading and firing, of a rifle, pistol or shotgun, the propelling force of which may be either air, compressed gas or springs, by a person under twelve years of age, under the immediate supervision, guidance and instruction of (a) a duly commissioned officer of the United States army, navy, marine corps or coast guard, or of the national guard of the state of New York; or (b) a duly qualified adult citizen of the United States who has been granted a certificate as an instructor in small arms practice issued by the United States army, navy or marine corps, or by the adjutant general of this state, or by the national rifle association of America, a not-for-profit corporation duly organized under the laws of this state; or (c) a parent, guardian, or a person over the age of eighteen designated in writing by such parent or guardian who shall have a certificate of qualification in responsible hunting, including safety, ethics, and landowner relations-hunter relations, issued or honored by the department of environmental conservation.

**7-e.** Possession and use of a pistol or revolver, at an indoor or outdoor pistol range located in or on premises owned or occupied by a duly incorporated organization organized for conservation purposes or to foster proficiency in small arms or at a target pistol shooting competition under the auspices of or approved by an association or organization described in paragraph 7-a of this subdivision for the purpose of loading and firing the same by a person at least eighteen years of age but under the age of twenty-one who has not been previously convicted of a felony or serious offense, and who does not appear to be, or pose a threat to be, a danger to himself or to others; provided however, that such possession shall be of a pistol or revolver duly licensed to and shall be used under the immediate supervision, guidance and instruction of, a person specified in paragraph seven of this subdivision.

**8.** The manufacturer of machine-guns, assault weapons, large capacity ammunition feeding devices, disguised guns, pilum ballistic knives, switchblade or gravity knives, billies or blackjacks as merchandise and the disposal and shipment thereof direct to a regularly constituted or appointed state or municipal police department, sheriff, policeman or other peace officer, or to a state prison, penitentiary, workhouse, county jail or other institution for the detention of persons convicted or accused of crime or held as witnesses in criminal cases, or to the military service of this state or of the United States.

**9.** The regular and ordinary transport of firearms as merchandise, provided that the person transporting such firearms, where he knows or has reasonable means of ascertaining what he is transporting, notifies in writing the police commissioner, police chief or other law enforcement officer performing such functions at the place of delivery, of the name and address of the consignee and the place of delivery, and withholds delivery to the consignee for such reasonable period of time designated in writing by such police commissioner, police chief or other law enforcement officer as such official may deem necessary for investigation as to whether the consignee may lawfully receive and possess such firearms.

**9-a. a.** Except as provided in subdivision b hereof, the regular and ordinary transport of pistols or revolvers by a manufacturer of firearms to whom a license as a dealer in firearms has been issued pursuant to section 400.00 of this chapter, or by an agent or employee of such manufacturer of firearms who is otherwise duly licensed to carry a pistol or revolver and who is duly authorized in writing by such manufacturer of firearms to transport pistols or revolvers on the date or dates specified, directly between places where the manufacturer of firearms regularly conducts business provided such pistols or revolvers are transported unloaded, in a locked opaque container. For purposes of this subdivision, places where the manufacturer of firearms regularly conducts business includes, but is not limited to places where the manufacturer of firearms regularly or customarily conducts development or design of pistols or revolvers, or regularly or customarily conducts tests on pistols or revolvers, or regularly or customarily participates in the exposition of firearms to the public.

**b.** The transportation of such pistols or revolvers into, out of or within the city of New York may be done only with the consent of the police commissioner of the city of New York. To obtain such consent, the manufacturer must notify the police commissioner in writing of the name and address of the transporting manufacturer, or agent or employee of the manufacturer who is authorized in writing by such manufacturer to transport pistols or revolvers, the number, make and model number of the firearms to be transported and the place where the manufacturer regularly conducts business within the city of New York and such other information as the commissioner may deem necessary. The manufacturer must not transport such pistols and revolvers between the designated places of business for such reasonable period of time designated in writing by the police commissioner as such official may deem necessary for investigation and to give consent. The police commissioner may not unreasonably withhold his consent.

**10.** Engaging in the business of gunsmith or dealer in firearms by a person to whom a valid license therefor has been issued pursuant to section 400.00.

**11.** Possession of a firearm or large capacity ammunition feeding device by a police officer or sworn peace officer of another state while conducting official business within the state of New York.

**12.** Possession of a pistol or revolver by a person who is a member or coach of an accredited college or university target pistol team while transporting the pistol or revolver into or through New York state to participate in a collegiate, olympic or target pistol shooting competition under the auspices of or approved by the national rifle association, provided such pistol or revolver is unloaded and carried in a locked carrying case and the ammunition therefor is carried in a separate locked container.

**13.** Possession of pistols and revolvers by a person who is a nonresident of this state while attending or traveling to or from, an organized competitive pistol match or league competition under auspices of, or approved by, the National Rifle Association and in which he is a competitor, within forty-eight hours of such event or by a person who is a non-resident of the state while attending or traveling to or from an organized match sanctioned by the International Handgun Metallic Silhouette Association and in which he is a competitor, within forty-eight hours of such



event, provided that he has not been previously convicted of a felony or a crime which, if committed in New York, would constitute a felony, and further provided that the pistols or revolvers are transported unloaded in a locked opaque container together with a copy of the match program, match schedule or match registration card. Such documentation shall constitute prima facie evidence of exemption, providing that such person also has in his possession a pistol license or firearms registration card issued in accordance with the laws of his place of residence. For purposes of this subdivision, a person licensed in a jurisdiction which does not authorize such license by a person who has been previously convicted of a felony shall be presumed to have no prior conviction. The superintendent of state police shall annually review the laws of jurisdictions within the United States and Canada with respect to the applicable requirements for licensing or registration of firearms and shall publish a list of those jurisdictions which prohibit possession of a firearm by a person previously convicted of a felony or crimes which if committed in New York state would constitute a felony.

**13-a.** Except in cities not wholly contained within a single county of the state, possession of pistols and revolvers by a person who is a non-resident of this state while attending or traveling to or from, an organized convention or exhibition for the display of or education about firearms, which is conducted under auspices of, or approved by, the National Rifle Association and in which he is a registered participant, within forty-eight hours of such event, provided that he has not been previously convicted of a felony or a crime which, if committed in New York, would constitute a felony, and further provided that the pistols or revolvers are transported unloaded in a locked opaque container together with a copy of the convention or exhibition program, convention or exhibition schedule or convention or exhibition registration card. Such documentation shall constitute prima facie evidence of exemption, providing that such person also has in his possession a pistol license or firearms registration card issued in accordance with the laws of his place of residence. For purposes of this paragraph, a person licensed in a jurisdiction which does not authorize such license by a person who has been previously convicted of a felony shall be presumed to have no prior conviction. The superintendent of state police shall annually review the laws of jurisdictions within the United States and Canada with respect to the applicable requirements for licensing or registration of firearms and shall publish a list of those jurisdictions which prohibit possession of a firearm by a person previously convicted of a felony or crimes which if committed in New York state would constitute a felony.

**14.** Possession in accordance with the provisions of this paragraph of a self-defense spray device as defined herein for the protection of a person or property and use of such self-defense spray device under circumstances which would justify the use of physical force pursuant to article thirty-five of this chapter.

**(a)** As used in this section "self-defense spray device" shall mean a pocket sized spray device which contains and releases a chemical or organic substance which is intended to produce temporary physical discomfort or disability through being vaporized or otherwise dispensed in the air or any like device containing tear gas, pepper or similar disabling agent.

**(b)** The exemption under this paragraph shall not apply to a person who:

**(i)** is less than eighteen years of age; or  
**(ii)** has been previously convicted in this state of a felony or any assault; or

**(iii)** has been convicted of a crime outside the state of New York which if committed in New York would constitute a felony or any assault crime.

**(c)** The department of health, with the cooperation of the division of criminal justice services and the superintendent of state police, shall develop standards and promulgate regulations regarding the type of self-defense spray device which may lawfully be purchased, possessed and used pursuant to this paragraph. The regulations shall include a requirement that every self-defense spray device which may be lawfully purchased, possessed or used pursuant to this paragraph have a label which states: "WARNING: The use of this substance or device for any purpose other than self-defense is a criminal offense under the law. The contents are dangerous - use with care. This device shall not be sold by anyone other than a licensed or authorized dealer. Possession of this device by any person under the age of eighteen or by anyone who has been convicted of a felony or assault is illegal. Violators may be prosecuted under the law."

**15.** Possession and sale of a self-defense spray device as defined in paragraph fourteen of this subdivision by a dealer in firearms licensed pursuant to section 400.00 of this chapter, a pharmacist licensed pursuant to article one hundred thirty-seven of the education law or by such other vendor as may be authorized and approved by the superintendent of state police.

**(a)** Every self-defense spray device shall be accompanied by an insert or inserts which include directions for use, first aid information, safety and storage information and which shall also contain a toll free telephone number for the purpose of allowing any purchaser to call and receive additional information regarding the availability of local courses in self-defense training and safety in the use of a self-defense spray device.

**(b)** Before delivering a self-defense spray device to any person, the licensed or authorized dealer shall require proof of age and a sworn statement on a form approved by the superintendent of state police that such person has not been convicted of a felony or any crime involving an assault. Such forms shall be forwarded to the division of state police at such intervals as directed by the superintendent of state police. Absent any such direction the forms shall be maintained on the premises of the vendor and shall be open at all reasonable hours for inspection by any peace officer or police officer, acting pursuant to his or her special duties. No more than two self-defense spray devices may be sold at any one time to a single purchaser.

**16.** The terms "rifle," "shotgun," "pistol," "revolver," and "firearm" as used in paragraphs three, four, five, seven, seven-a, seven-b, nine, nine-a, ten, twelve, thirteen and thirteen-a of this subdivision shall not include a disguised gun or an assault weapon.

**b.** Section 265.01 shall not apply to possession of that type of billy commonly known as a "police baton" which is twenty-four to twenty-six inches in length and no more than one and one-quarter inches in thickness by members of an auxiliary police force of a city with a population in excess of one million persons or the county of Suffolk when duly authorized by regulation or order issued by the police commissioner of such city or such county respectively. Such regula-

tions shall require training in the use of the police baton including but not limited to the defensive use of the baton and instruction in the legal use of deadly physical force pursuant to article thirty-five of this chapter. Notwithstanding the provisions of this section or any other provision of law, possession of such baton shall not be authorized when used intentionally to strike another person except in those situations when the use of deadly physical force is authorized by such article thirty-five.

#### **265.40 Purchase of rifles and/or shotguns in contiguous states.**

**Definitions.** As used in this act:

**1.** "Contiguous state" shall mean any state having any portion of its border in common with a portion of the border of the state of New York;

**2.** All other terms herein shall be given the meaning prescribed in Public Law 90-618 known as the "Gun Control Act of 1968" (18 U.S.C. 921).

It shall be lawful for a person or persons residing in this state, to purchase or otherwise obtain a rifle and/or shotgun in a contiguous state, and to receive or transport such rifle and/or shotgun into this state; provided, however, such person is otherwise eligible to possess a rifle and/or shotgun under the laws of this state.

#### **Article 400. Licensing and Other Provisions Relating to Firearms**

##### **400.00. Licenses to carry, possess, repair and dispose of firearms.**

**1. Eligibility.** No license shall be issued or renewed pursuant to this section except by the licensing officer, and then only after investigation and finding that all statements in a proper application for a license are true. No license shall be issued or renewed except for an applicant (a) twenty-one years of age or older, provided, however, that where such applicant has been honorably discharged from the United States army, navy, marine corps, air force or coast guard, or the national guard of the state of New York, no such age restriction shall apply; (b) of good moral character; (c) who has not been convicted anywhere of a felony or a serious offense; (d) who has stated whether he has ever suffered any mental illness or been confined to any hospital or institution, public or private, for mental illness; (e) who has not had a license revoked or who is not under a suspension or ineligibility order issued pursuant to the provisions of section 530.14 of the criminal procedure law or section eight hundred forty-two-a of the family court act; (f) in the county of Westchester, who has successfully completed a firearms safety course and test as evidenced by a certificate of completion issued in his or her name and endorsed and affirmed under the penalties of perjury by a duly authorized instructor, except that: (i) persons who are honorably discharged from the United States army, navy, marine corps or coast guard, or of the national guard of the state of New York, and produce evidence of official qualification in firearms during the term of service are not required to have completed those hours of a firearms safety course pertaining to the safe use, carrying, possession, maintenance and storage of a firearm; and (ii) persons who were licensed to possess a pistol or revolver prior to the effective date of this paragraph are not required to have completed a firearms safety course and test; and (g) concerning whom no good cause exists for the denial of the license. No person shall engage in the business of gunsmith or dealer in firearms unless licensed pursuant to this section. An applicant to engage in such bus-



iness shall also be a citizen of the United States, more than twenty-one years of age and maintain a place of business in the city or county where the license is issued. For such business, if the applicant is a firm or partnership, each member thereof shall comply with all of the requirements set forth in this subdivision and if the applicant is a corporation, each officer thereof shall so comply.

**2. Types of licenses.** A license for gunsmith or dealer in firearms shall be issued to engage in such business. A license for a pistol or revolver, other than an assault weapon or a disguised gun, shall be issued to (a) have and possess in his dwelling by a householder; (b) have and possess in his place of business by a merchant or storekeeper; (c) have and carry concealed while so employed by a messenger employed by a banking institution or express company; (d) have and carry concealed by a justice of the supreme court in the first or second judicial departments, or by a judge of the New York city civil court or the New York city criminal court; (e) have and carry concealed while so employed by a regular employee of an institution of the state, or of any county, city, town or village, under control of a commissioner of correction of the city or any warden, superintendent or head keeper of any state prison, penitentiary, workhouse, county jail or other institution for the detention of persons convicted or accused of crime or held as witnesses in criminal cases, provided that application is made therefor by such commissioner, warden, superintendent or head keeper; (f) have and carry concealed, without regard to employment or place of possession, by any person when proper cause exists for the issuance thereof; and (g) have, possess, collect and carry antique pistols which are defined as follows: (i) any single shot, muzzle loading pistol with a matchlock, flintlock, percussion cap, or similar type of ignition system manufactured in or before 1898, which is not designed for using rimfire or conventional centerfire fixed ammunition; and (ii) any replica of any pistol described in clause (i) hereof if such replica -

(1) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or

(2) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

### **3. Applications.**

(a) Applications shall be made and renewed, in the case of a license to carry or possess a pistol or revolver, to the licensing officer in the city or county, as the case may be, where the applicant resides, is principally employed or has his principal place of business as merchant or storekeeper; and, in the case of a license as gunsmith or dealer in firearms, to the licensing officer where such place of business is located. Blank applications shall, except in the city of New York, be approved as to form by the superintendent of state police. An application shall state the full name, date of birth, residence, present occupation of each person or individual signing the same, whether or not he is a citizen of the United States, whether or not he complies with each requirement for eligibility specified in subdivision one of this section and such other facts as may be required to show the good character, competency and integrity of each person or individual signing the application. An application shall be signed and verified by the applicant. Each individual signing an application

shall submit one photograph of himself and a duplicate for each required copy of the application. Such photographs shall have been taken within thirty days prior to filing the application. In case of a license as gunsmith or dealer in firearms, the photographs submitted shall be two inches square, and the application shall also state the previous occupation of each individual signing the same and the location of the place of such business, or of the bureau, agency, subagency, office or branch office for which the license is sought, specifying the name of the city, town or village, indicating the street and number and otherwise giving such apt description as to point out reasonably the location thereof. In such case, if the applicant is a firm, partnership or corporation, its name, date and place of formation, and principal place of business shall be stated. For such firm or partnership, the application shall be signed and verified by each individual composing or intending to compose the same, and for such corporation, by each officer thereof.

(b) Application for an exemption under paragraph seven-b of subdivision a of section 265.20 of this chapter. Each applicant desiring to obtain the exemption set forth in paragraph seven-b of subdivision a of section 265.20 of this chapter shall make such request in writing of the licensing officer with whom his application for a license is filed, at the time of filing such application. Such request shall include a signed and verified statement by the person authorized to instruct and supervise the applicant, that has met with the applicant and that he has determined that, in his judgment, said applicant does not appear to be or poses a threat to be, a danger to himself or to others. He shall include a copy of his certificate as an instructor in small arms, if he is required to be certified, and state his address and telephone number. He shall specify the exact location by name, address and telephone number where such instruction will take place. Such licensing officer shall, no later than ten business days after such filing, request the duly constituted police authorities of the locality where such application is made to investigate and ascertain any previous criminal record of the applicant pursuant to subdivision four of this section. Upon completion of this investigation, the police authority shall report the results to the licensing officer without unnecessary delay. The licensing officer shall no later than ten business days after the receipt of such investigation, determine if the applicant has been previously denied a license, been convicted of a felony, or been convicted of a serious offense, and either approve or disapprove the applicant for exemption purposes based upon such determinations. If the applicant is approved for the exemption, the licensing officer shall notify the appropriate duly constituted police authorities and the applicant. Such exemption shall terminate if the application for the license is denied, or at any earlier time based upon any information obtained by the licensing officer or the appropriate police authorities which would cause the license to be denied. The applicant and appropriate police authorities shall be notified of any such terminations.

**4. Investigation.** Before a license is issued or renewed, there shall be an investigation of all statements required in the application by the duly constituted police authorities of the locality where such application is made. For that purpose, the records of the appropriate office of the department of mental hygiene concerning previous or present mental illness of the applicant shall be available for inspection by the

investigating officer of the police authority. In order to ascertain any previous criminal record, the investigating officer shall take the fingerprints and physical descriptive data in quadruplicate of each individual by whom the application is signed and verified. Two copies of such fingerprints shall be taken on standard fingerprint cards eight inches square, and one copy may be taken on a card supplied for that purpose by the federal bureau of investigation. When completed, one standard card shall be forwarded to and retained by the division of criminal justice services in the executive department, at Albany. A search of the files of such division and written notification of the results of the search to the investigating officer shall be made without unnecessary delay. Thereafter, such division shall notify the licensing officer and the executive department, division of state police, Albany, of any criminal record of the applicant filed therein subsequent to the search of its files. A second standard card, or the one supplied by the federal bureau of investigation, as the case may be, shall be forwarded to that bureau at Washington with a request that the files of the bureau be searched and notification of the results of the search be made to the investigating police authority. The failure or refusal of the federal bureau of investigation to make the fingerprint check provided for in this section shall not constitute the sole basis for refusal to issue a permit pursuant to the provisions of this section. Of the remaining two fingerprint cards, one shall be filed with the executive department, division of state police, Albany, within ten days after issuance of the license, and the other remain on file with the investigating police authority. No such fingerprints may be inspected by any person other than a peace officer, who is acting pursuant to his special duties, or a police officer, except on order of a judge or justice of a court of record either upon notice to the licensee or without notice, as the judge or justice may deem appropriate. Upon completion of the investigation, the police authority shall report the results to the licensing officer without unnecessary delay.

### **4-a. Processing of license applications.**

Applications for licenses shall be accepted for processing by the licensing officer at the time of presentment. Except upon written notice to the applicant specifically stating the reasons for any delay, in each case the licensing officer shall act upon any application for a license pursuant to this section within six months of the date of presentment of such an application to the appropriate authority. Such delay may only be for good cause and with respect to the applicant. In acting upon an application, the licensing officer shall either deny the application for reasons specifically and concisely stated in writing or grant the application and issue the license applied for.

**4-b. Westchester county firearms safety course certificate.** In the county of Westchester, at the time of application, the licensing officer to which the license application is made shall provide a copy of the safety course booklet to each license applicant. Before such license is issued, such licensing officer shall require that the applicant submit a certificate of successful completion of a firearms safety course and test issued in his or her name and endorsed and affirmed under the penalties of perjury by a duly authorized instructor.

**5. Filing of approved applications.** The application for any license, if granted, shall be filed by the licensing officer with the clerk of the

county of issuance, except that in the city of New York and, in the counties of Nassau and Suffolk, the licensing officer shall designate the place of filing in the appropriate division, bureau or unit of the police department thereof, and in the county of Suffolk the county clerk is hereby authorized to transfer all records or applications relating to firearms to the licensing authority of that county. The name and address of any person to whom an application for any license has been granted shall be a public record. Upon application by a licensee who has changed his place of residence such records or applications shall be transferred to the appropriate officer at the licensee's new place of residence. A duplicate copy of such application shall be filed by the licensing officer in the executive department, division of state police, Albany, within ten days after issuance of the license. Nothing in this subdivision shall be construed to change the expiration date or term of such licenses if otherwise provided for in law.

**6. License: validity.** Any license issued pursuant to this section shall be valid notwithstanding the provisions of any local law or ordinance. No license shall be transferable to any other person or premises. A license to carry or possess a pistol or revolver, not otherwise limited as to place or time of possession, shall be effective throughout the state, except that the same shall not be valid within the city of New York unless a special permit granting validity is issued by the police commissioner of that city. Such license to carry or possess shall be valid within the city of New York in the absence of a permit issued by the police commissioner of that city, provided that (a) the firearms covered by such license have been purchased from a licensed dealer within the city of New York and are being transported out of said city forthwith and immediately from said dealer by the licensee in a locked container during a continuous and uninterrupted trip; or provided that (b) the firearms covered by such license are being transported by the licensee in a locked container and the trip through the city of New York is continuous and uninterrupted; or provided that (c) the firearms covered by such license are carried by armored car security guards transporting money or other valuables, in, to, or from motor vehicles commonly known as armored cars, during the course of their employment; or provided that (d) the licensee is a retired police officer as police officer is defined pursuant to subdivision thirty-four of section 1.20 of the criminal procedure law or a retired federal law enforcement officer, as defined in section 2.15 of the criminal procedure law, who has been issued a license by an authorized licensing officer as defined in subdivision ten of section 265.00 of this chapter; provided, further, however, that if such license was not issued in the city of New York it must be marked "Retired Police Officer" or "Retired Federal Law Enforcement Officer", as the case may be, and, in the case of a retired officer the license shall be deemed to permit only police or federal law enforcement regulations weapons. A license as gunsmith or dealer in firearms shall not be valid outside the city or county, as the case may be, where issued.

**7. License: form.** Any license issued pursuant to this section shall, except in the city of New York, be approved as to form by the superintendent of state police. A license to carry or possess a pistol or revolver shall have attached the licensee's photograph, and a coupon which shall be removed and retained by any person disposing of a firearm to the

licensee. Such license shall specify the weapon covered by caliber, make, model, manufacturer's name and serial number, or if none, by any other distinguishing number or identification mark, and shall indicate whether issued to carry on the person or possess on the premises, and if on the premises shall also specify the place where the licensee shall possess the same. If such license is issued to an alien, or to a person not a citizen of and usually a resident in the state, the licensing officer shall state in the license the particular reason for the issuance and the names of the persons certifying to the good character of the applicant. Any license as gunsmith or dealer in firearms shall mention and describe the premises for which it is issued and shall be valid only for such premises.

**8. License: exhibition and display.** Every licensee while carrying a pistol or revolver shall have on his or her person a license to carry the same. Every person licensed to possess a pistol or revolver on particular premises shall have the license for the same on such premises. Upon demand, the license shall be exhibited for inspection to any peace officer, who is acting pursuant to his or her special duties, or police officer. A license as gunsmith or dealer in firearms shall be prominently displayed on the licensee's premises. A gunsmith or dealer of firearms may conduct business temporarily at a location other than the location specified on the license if such temporary location is the location for a gun show or event sponsored by any national, state, or local organization, or any affiliate of any such organization devoted to the collection, competitive use or other sporting use of firearms. Any sale or transfer at a gun show must also comply with the provisions of article thirty-nine-DD of the general business law. Records of receipt and disposition of firearms transactions conducted at such temporary location shall include the location of the sale or other disposition and shall be entered in the permanent records of the gunsmith or dealer of firearms and retained on the location specified on the license. Nothing in this section shall authorize any licensee to conduct business from any motorized or towed vehicle. A separate fee shall not be required of a licensee with respect to business conducted under this subdivision. Any inspection or examination of inventory or records under this section at such temporary location shall be limited to inventory consisting of, or records related to, firearms held or disposed at such temporary locations. Failure of any licensee to so exhibit or display his or her license, as the case may be, shall be presumptive evidence that he or she is not duly licensed.

**9. License: amendment.** Elsewhere than in the city of New York, a person licensed to carry or possess a pistol or revolver may apply at any time to his licensing officer for amendment of his license to include one or more such weapons or to cancel weapons held under license. If granted, a record of the amendment describing the weapons involved shall be filed by the licensing officer in the executive department, division of state police, Albany. Notification of any change of residence shall be made in writing by any licensee within ten days after such change occurs, and a record of such change shall be inscribed by such licensee on the reverse side of his license. Elsewhere than in the city of New York, and in the counties of Nassau and Suffolk, such notification shall be made to the executive department, division of state police, Albany, and in the city of New York to the police commissioner of that city, and in

the county of Nassau to the police commissioner of that county, and in the county of Suffolk to the licensing officer of that county, who shall, within ten days after such notification shall be received by him, give notice in writing of such change to the executive department, division of state police, at Albany.

**10. License: expiration, certification and renewal.** Any license for gunsmith or dealer in firearms and, in the city of New York, any license to carry or possess a pistol or revolver, issued at any time pursuant to this section or prior to the first day of July, nineteen hundred sixty-three and not limited to expire on an earlier date fixed in the license, shall expire not more than three years after the date of issuance. In the counties of Nassau, Suffolk and Westchester, any license to carry or possess a pistol or revolver, issued at any time pursuant to this section or prior to the first day of July, nineteen hundred sixty-three and not limited to expire on an earlier date fixed in the license, shall expire not more than five years after the date of issuance; however, in the county of Westchester, any such license shall be certified prior to the first day of April, two thousand, in accordance with a schedule to be contained in regulations promulgated by the commissioner of the division of criminal justice services, and every such license shall be recertified every five years thereafter. For purposes of this section certification shall mean that the licensee shall provide to the licensing officer the following information only: current name, date of birth, current address, and the make, model, caliber and serial number of all firearms currently possessed. Such certification information shall be filed by the licensing officer in the same manner as an amendment. Elsewhere than in the city of New York and the counties of Nassau, Suffolk and Westchester, any license to carry or possess a pistol or revolver, issued at any time pursuant to this section or prior to the first day of July, nineteen hundred sixty-three and not previously revoked or cancelled, shall be in force and effect until revoked as herein provided. Any license not previously cancelled or revoked shall remain in full force and effect for thirty days beyond the stated expiration date on such license. Any application to renew a license that has not previously expired, been revoked or cancelled shall thereby extend the term of the license until disposition of the application by the licensing officer. In the case of a license for gunsmith or dealer in firearms, in counties having a population of less than two hundred thousand inhabitants, photographs and fingerprints shall be submitted on original applications and upon renewal thereafter only at six year intervals. Upon satisfactory proof that a currently valid original license has been despoiled, lost or otherwise removed from the possession of the licensee and upon application containing an additional photograph of the licensee, the licensing officer shall issue a duplicate license.

**11. License: revocation and suspension.** The conviction of a licensee anywhere of a felony or serious offense shall operate as a revocation of the license. A license may be revoked or suspended as provided for in section 530.14 of the criminal procedure law or section eight hundred forty-two-a of the family court act. A license may be revoked and cancelled at any time in the city of New York, and in the counties of Nassau and Suffolk, by the licensing officer, and elsewhere than in the city of New York by any judge or justice of a court of record. The official revoking a license shall give written

notice thereof without unnecessary delay to the executive department, division of state police, Albany, and shall also notify immediately the duly constituted police authorities of the locality.

**12. Records required of gunsmiths and dealers in firearms.** Any person licensed as gunsmith or dealer in firearms shall keep a record book approved as to form, except in the city of New York, by the superintendent of state police. In the record book shall be entered at the time of every transaction involving a firearm the date, name, age, occupation and residence of any person from whom a firearm is received or to whom a firearm is delivered, and the caliber, make, model, manufacturer's name and serial number, or if none, any other distinguishing number or identification mark on such firearm. Before delivering a firearm to any person, the licensee shall require him to produce either a license valid under this section to carry or possess the same, or proof of lawful authority as an exempt person pursuant to section 265.20. In addition, before delivering a firearm to a peace officer, the licensee shall verify that person's status as a peace officer with the division of state police. After completing the foregoing, the licensee shall remove and retain the attached coupon and enter in the record book the date of such license, number, if any, and name of the licensing officer, in the case of the holder of a license to carry or possess, or the shield or other number, if any, assignment and department, unit or agency, in the case of an exempt person. The original transaction report shall be forwarded to the division of state police within ten days of delivering a firearm to any person, and a duplicate copy shall be kept by the licensee. The record book shall be maintained on the premises mentioned and described in the license and shall be open at all reasonable hours for inspection by any peace officer, acting pursuant to his special duties, or police officer. In the event of cancellation or revocation of the license for gunsmith or dealer in firearms, or discontinuance of business by a licensee, such record book shall be immediately surrendered to the licensing officer in the city of New York, and in the counties of Nassau and Suffolk, and elsewhere in the state to the executive department, division of state police.

**12-a. State police regulations applicable to licensed gunsmiths engaged in the business of assembling or manufacturing firearms.** The superintendent of state police is hereby authorized to issue such rules and regulations as he deems reasonably necessary to prevent the manufacture and assembly of unsafe firearms in the state. Such rules and regulations shall establish safety standards in regard to the manufacture and assembly of firearms in the state, including specifications as to materials and parts used, the proper storage and shipment of firearms, and minimum standards of quality control. Regulations issued by the state police pursuant to this subdivision shall apply to any person licensed as a gunsmith under this section engaged in the business of manufacturing or assembling firearms, and any violation thereof shall subject the licensee to revocation of license pursuant to subdivision eleven of this section.

**12-c. Firearms records.**

(a) Every employee of a state or local agency, unit of local government, state or local commission, or public or private organization who possesses a firearm or machine-gun under an exemption to the licensing requirements under this chapter, shall promptly report in writing to his employer the make, model, caliber and serial

number of each such firearm or machine-gun. Thereafter, within ten days of the acquisition or disposition of any such weapon, he shall furnish such information to his employer, including the name and address of the person from whom the weapon was acquired or to whom it was disposed.

(b) Every head of a state or local agency, unit of local government, state or local commission, public authority or public or private organization to whom an employee has submitted a report pursuant to paragraph (a) of this subdivision shall promptly forward such report to the superintendent of state police.

(c) Every head of a state or local agency, unit of local government, state or local commission, public authority, or any other agency, firm or corporation that employs persons who may lawfully possess firearms or machine-guns without the requirement of a license therefor, or that employs persons licensed to possess firearms or machine-guns, shall promptly report to the superintendent of state police, in the manner prescribed by him, the make, model, caliber and serial number of every firearm or machine-gun possessed by it on the effective date of this act for the use of such employees or for any other use. Thereafter, within ten days of the acquisition or disposition of any such weapon, such head shall report such information to the superintendent of the state police, including the name and address of the person from whom the weapon was acquired or to whom it was disposed.

**13. Expenses.** The expense of providing a licensing officer with blank applications, licenses and record books for carrying out the provisions of this section shall be a charge against the county, and in the city of New York against the city.

**14. Fees.** In the city of New York and the county of Nassau, the annual license fee shall be twenty-five dollars for gunsmiths and fifty dollars for dealers in firearms. In such city, the city council and in the county of Nassau the Board of Supervisors shall fix the fee to be charged for a license to carry or possess a pistol or revolver and provide for the disposition of such fees. Elsewhere in the state, the licensing officer shall collect and pay into the county treasury the following fees: for each license to carry or possess a pistol or revolver, not less than three dollars nor more than ten dollars as may be determined by the legislative body of the county; for each amendment thereto, three dollars, and five dollars in the county of Suffolk; and for each license issued to a gunsmith or dealer in firearms, ten dollars. The fee for a duplicate license shall be five dollars. The fee for processing a license transfer between counties shall be five dollars. The fee for processing a license or renewal thereof for a qualified retired police officer as defined under subdivision thirty-four of section 1.20 of the criminal procedure law, or a qualified retired bridge and tunnel officer, sergeant or lieutenant of the triborough bridge and tunnel authority as defined under subdivision twenty of section 2.10 of the criminal procedure law, or a qualified retired uniformed court officer in the unified court system, or a qualified retired court clerk in the unified court system in the first and second judicial departments, as defined in paragraphs (a) and (b) of subdivision twenty-one of section 2.10 of the criminal procedure law or a retired correction officer as defined in subdivision twenty-five of section 2.10 of the criminal procedure law shall be waived in all counties throughout the state.

**15.** Any violation by any person of any provision of this section is a class A misdemeanor.

**16. Unlawful disposal.** No person shall except as otherwise authorized pursuant to law dispose of any firearm unless he is licensed as gunsmith or dealer in firearms.

**17. Applicability of section.** The provisions of article two hundred sixty-five relating to illegal possession of a firearm, shall not apply to an offense which also constitutes a violation of this section by a person holding an otherwise valid license under the provisions of this section and such offense shall only be punishable as a class A misdemeanor pursuant to this section. In addition, the provisions of such article two hundred sixty-five shall not apply to the possession of a firearm in a place not authorized by law, by a person who holds an otherwise valid license or possession of a firearm by a person within a one year period after the stated expiration date of an otherwise valid license which has not been previously cancelled or revoked shall only be punishable as a class A misdemeanor pursuant to this section.

**400.05 Disposition of weapons and dangerous instruments, appliances and substances.**

1. Any weapon, instrument, appliance or substance specified in article two hundred sixty-five, when unlawfully possessed, manufactured, transported or disposed of, or when utilized in the commission of an offense, is hereby declared a nuisance. When the same shall come into the possession of any police officer or peace officer, it shall be surrendered immediately to the official mentioned in paragraph (f) of subdivision one of section 265.20, except that such weapon, instrument, appliance or substance coming into the possession of the state police shall be surrendered to the superintendent of state police.

**400.10. Report of theft or loss of a firearm, rifle or shotgun.**

1.(a) Any owner or other person lawfully in possession of a firearm, rifle or shotgun who suffers the loss or theft of said weapon shall within twenty-four hours of the discovery of the loss or theft report the facts and circumstances of the loss or theft to a police department or sheriff's office.

(b) Whenever a person reports the theft or loss of a firearm, rifle or shotgun to any police department or sheriff's office, the officer or department receiving such report shall forward notice of such theft or loss to the division of state police via the New York Statewide Police Information Network. The notice shall contain information in compliance with the New York Statewide Police Information Network Operating Manual, including the caliber, make, model, manufacturer's name and serial number, if any, and any other distinguishing number or identification mark on the weapon.

2. The division of state police shall receive, collect and file the information referred to in subdivision one of this section. The division shall cooperate, and undertake to furnish or make available to law enforcement agencies this information, for the purpose of coordinating law enforcement efforts to locate such weapons.

3. Notwithstanding any other provision of law, a violation of paragraph (a) of subdivision one of this section shall be punishable only by a fine not to exceed one hundred dollars.

[Current through 2001 N.Y. Laws 534 (Nov. 28, 2001), including 2000 N.Y. Laws 189]

**Chapter 193. Firearms and Ammunition**  
**Article I. Carrying of Loaded Firearms**

**193-1. Unlawful to carry loaded firearms; exception.** Any person, other than a peace officer, who shall in any public street, highway or place within the City of Albany have upon his person or carry any loaded pistol, revolver or other firearm without having been authorized as provided by law to carry the same shall be guilty of a misdemeanor, punishable by a fine not exceeding one hundred fifty dollars (\$150.) or by imprisonment in a penitentiary or county jail for not more than one hundred fifty (150) days, or by both.

**193-2. Commissioner of Police authorized to issue permit to carry loaded firearms.** Any person, except as provided in this Article, who has occasion to carry a loaded revolver, pistol or firearm for his protection may apply to the Commissioner of Police, and such officer, if satisfied that the applicant is a proper and law-abiding person, shall give said person a permit allowing him to carry such loaded firearm for such period of time as he may deem proper. Any non-resident who does business in the City of Albany and has occasion to carry a loaded pistol, revolver or firearm while in said city must make application for permission to do so, to the Commissioner of Police, in the same manner as is required of residents of said city and shall be subject to the same conditions and restrictions.

**Article II. Firearms and Ammunition**

**193-6. Purpose.** The Common Council hereby finds that the storage, possession and display of firearms and the storage, possession and display of ammunition in the City of Albany require the regulation thereof in the public interest, convenience and necessity.

**193-7. Definitions.** Unless otherwise expressly stated, whenever used in this Article, the following words shall have the meanings given to them by this section. When used herein:

**Ammunition** - Any projectile commonly known as a "bullet" or "shell."

**Firearm** - Any weapon from which a shot is discharged by force of an explosive, or a weapon which acts by force of gunpowder, and shall include any weapon capable of being loaded with powder, ball or ammunition, and shall include any weapon which is otherwise capable of being loaded with powder, ball or ammunition, whether completed, assembled or from which any part or piece has been removed therefrom.

**Person** - Any person, firm, partnership, association, corporation, company or organization of any kind.

**193-8. Storage; Police Chief; Fire Chief.** Firearms and ammunition for sale shall be kept secured at all times when the place in which they are held for sale is not open for business. The manner in which the firearms and ammunition are to be secured must be approved by both the Chief of Police and the Chief of the Fire Department upon receipt of appropriate application for such approval. Such approval shall in no case be unreasonably withheld.

**193-9. Exceptions.** The regulations provided for herein shall not apply to personal possession, use or ownership of firearms or ammunition therefor.

**193-10. Report of theft or loss to Police Department.** Any theft or loss of ammunition or

firearms from a storage vault or otherwise shall be reported immediately to the Police Department of the City of Albany.

**193-12. Penalties for offenses.** Any person who shall violate or shall neglect or refuse to comply with this Article or any provisions thereof shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not less than one hundred dollars (\$100.) or by imprisonment not exceeding sixty (60) days, or by both such fine and imprisonment, and each day of violation shall constitute a separate offense and be subject to punishment as such.

**Article III. Firearms**

**193-13. Findings and declaration.** The Common Council of the City of Albany finds and declares that the proliferation and use of assault weapons pose and present a threat to the health, safety, welfare and security to the citizens of Albany.

**193-14. Scope and intent.** As used herein, "assault weapon" generally means a firearm of such a nature and with such a high rate of fire and/or capacity for firepower that its function as a legitimate sports or recreational firearm is substantially outweighed by the danger that it can be used to kill and injure human beings. While it is the intent, then, of this legislation to restrict the use and possession of assault weapons, it is not the intent of the Common Council to place restrictions on the use of those firearms which are primarily designed and intended for hunting, target practice or other legitimate sports or recreational activities.

**193-15. Assault weapons.**

**A.** As used herein, "assault weapon" includes any of the following or their copies:

**(1) Pistols:**

Bushmaster Firearms Company auto pistol  
Calico Model 100-P auto pistol  
Federal Engineering Corporation XP 450, XP 900

Holmes Firearms MP-83, MP-22 assault pistols

Intratec Tec-9 Auto, Tec-9M, Scorpion auto pistols

Israeli Military Industries UZI pistol  
Iver Johnson Enforcer Model 300 auto  
Ingram or S.W.D. MAC 10, MAC 11  
Spectre double-action auto pistol  
Ruger Mini 14

**(2) Rifles and shotguns by manufacturers in the United States:**

Auto-Ordinance Corporation Thompson M1, Mix, 27 A-1

Thompson A-1 Thompson Deluxe, 1927 A5  
Colt AR-15A2-Delta H-Bar, AR-15A2 H-Bar  
Federal Engineering Corporation XC-900, XC-450 auto carbines

Springfield Armory Inc. BM-59, SAR-48  
S.W.D. Street Sweeper shotgun  
Weaver Arms Corporation nighthawk

**(3) Rifles and shotguns by manufacturers outside the United States:**

Avtomat Kalashnikovs manufactured or imported by American Arms, Bushmaster Firearms, Daewoo, Mitchell, Norinco and Poly Technologies

Beretta AR-70 Sporter rifle  
Fabrique National FN, FNC rifle  
Franchi LAW 12 auto, SPAS 12 pump/auto shotguns  
Heckler and Koch HK 91, 93, 94 rifles

Israeli Military Industries Galil Rifles, UZI carbines

Steyr Daimler-Pusch A.U.G. autoloading rifle  
Striker 12 shotgun

Valmet M-76 standard rifle, M78 semi-auto

**(4)** Any other weapon to be subsequently designated by law.

**B.** A copy of any of the weapons listed in Subsection A(1), (2) and (3) of this section shall include any other model by the same manufacturer with the same action design having slight modifications or enhancements, provided that such weapon as modified or enhanced employs only ammunition of more than .22 caliber rimfire; any weapon with an action design identical or nearly identical to any of the listed weapons which has been designed from, renamed, re-numbered or patterned after any of the listed weapons regardless of the manufacturer or country of origin, provided that such weapon employs only ammunition of more than .22 caliber rimfire; or any weapon which has been manufactured and sold by another company under a licensing agreement to manufacture or sell a weapon identical or nearly identical to any of the listed weapons regardless of the company or production or country of origin, provided that such weapon employs only ammunition of more than .22 caliber rimfire.

**C.** "Assault weapon" does not include weapons that do not use cartridges, manually operated bolt-action weapons, lever-action weapons, slide-action weapons, single-shot weapons, multiple-barrel weapons, revolving-cylinder weapons except shotguns, semiautomatic weapons that use exclusively a rotary Mannlicher-style magazine, any antique firearm as defined in Article 265 of the Penal Law or any assault weapon which has been modified either to render it permanently inoperable or permanently make it a device no longer defined as an assault weapon.

**193-16. Prohibition; penalty; registration of existing weapons.**

**A.** Any person, firm or corporation who or which shall, on or after the effective date of this Article, manufacture, import, keep, offer or expose for sale, give, lend or possess any assault weapon in the City of Albany, except as provided for herein, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine not exceeding one thousand dollars (\$1,000) and/or to imprisonment not exceeding one (1) year.

**B.** Any individual who lawfully acquired and possessed an assault weapon, as defined herein, prior to the effective date of this Article shall register the firearm with the Chief of the Albany Police Department pursuant to the provisions of § 193-17 herein. The registration shall be made within ninety (90) days of the effective date hereof and shall contain a description of the firearm that identifies it uniquely, including all identification marks and the full name, address, date of birth and fingerprints of the owner, together with such other information as the Chief of Police may deem appropriate. Any change of address of the owner must be registered with the Department within ninety (90) days of the change. The Department may charge a fee for registration not to exceed the actual processing costs of the Department. Such registration shall allow the possession of the firearm on the registrant's property or for the uses specified in § 193-17.

**C.** On and after the date fixed herein for the registration of assault weapons, no such weapon possessed pursuant hereto shall be sold or transferred to anyone within the City of Albany other than at a licensed gun dealer as defined in the Penal Law. Any individual who obtains title to an assault weapon registered under this section by bequest or intestate succession must, within ninety (90) days, either render the weapon inoperable in accordance with § 193-15,

apply for a license pursuant to § 193-17 herein, sell the weapon to a licensed gun dealer or remove the weapon from the city.

**193-17. Possession for competitive use; licensing and transportation.**

**A.** A license for an assault weapon may be issued as provided in Subsection B to possess such weapon for the purpose of loading and firing the same while participating as a competitor in organized competitive matches or league competition under the auspices of or approval by a law enforcement agency or a nationally or state recognized organization that fosters proficiency in or promotes education about fire-arms or to possess such weapon for the purpose of loading and firing the same at a range located on premises owned and occupied by such agency or organization. Such license shall not permit use for any other purpose and shall not be transferable.

**B.** Application for such license as hereinbefore specified shall be made to the Chief of the Albany Police Department on forms prescribed by him for that purpose. Every person so licensed shall have such license on his or her person when engaged in such activity and while transporting such weapon to or from such competition or range.

**C.** All such weapons shall be transported in a case, together with a copy of the match program, match schedule or match registration. Where such person is transporting such weapon to or from a range, it shall be transported in a case. Magazines and ammunition for such weapon shall be carried and transported in a locked container separate from the weapon.

**D.** A licensed gun dealer, as defined in the Penal Law of the State of New York, who lawfully possessed an assault weapon prior to the effective date of this legislation or who gains possession thereof pursuant to this legislation may transport the weapon between dealers or out of the city, display it at any gun show licensed by a state or local governmental entity or sell it to a person licensed under this section. Any transporting allowed herein shall be accomplished as required in Subsection C.

**193-18. Applicability to police and military forces.** The provisions of this Article shall not apply to the sale to, purchase by or the use or possession of firearms by the Police Department, Sheriff's office, Marshal's office, corrections officers and the like or the military forces of this state while engaged in the discharge of their official duties or as otherwise permitted by regulation or law.

[Code of the City of Albany current as of Nov. 25, 2001]

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**Code of the City of Buffalo**

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**Chapter 180. Firearms, Arrows and Other Weapons**  
**Article I. Firearms and Arrows**

**180-1. Firearms, shotguns, rifles and other dangerous weapons.**

**A. Purpose and intent.** The City of Buffalo finds that violent crime is a serious problem in the city and firearms and other dangerous weapons are frequently used in the commission of crimes, particularly homicides and assaults. The possession of such weapons also often leads to accidental deaths and injuries. The possession and use of assault weapons and ammunition-feeding devices for criminal purposes is increas-

ing and poses a serious danger to public safety. The use of weapons by persons under the influence of drugs and/or alcohol can readily lead to serious injury or death. The possession of weapons in public facilities and places also poses a serious danger to public safety. The possession of toy or imitation weapons which substantially duplicate actual weapons poses a danger to the person possessing the weapon and to others. In order to promote and protect the health, safety and welfare of the public, the City of Buffalo finds it necessary to place restrictions upon the possession and use of such weapons. The restrictions imposed by this section are intended to be in addition to restrictions found in state law and are not intended to conflict with state law provisions.

**B. Definitions.** As used in this section, the following terms shall have the meanings indicated:

**Ammunition** - Explosives suitable to be fired from a firearm, machine gun, pistol, revolver, rifle, shotgun, assault weapon or other dangerous weapon.

**Ammunition-Feeding Device** - Magazines, belts, feedstrips, drums or clips capable of being attached to or utilized with any center-fire rifle, shotgun or pistol which employs the force of the expanding gases from a discharging cartridge to chamber a fresh round after each single pull of the trigger which, in the case of a rifle or shotgun, holds in excess of five cartridges, or in the case of a pistol holds in excess of 17 cartridges.

**Assault Weapon:**

(1) Any center-fire rifle or shotgun which employs the force of the expanding gases from a discharging cartridge to chamber a fresh round after each single pull of the trigger, and which is loaded or capable of being loaded with a combination of more than six cartridges in the ammunition-feeding device and chamber combined. For the purposes of this section, a weapon is capable of being loaded if it is possessed by one who, at the same time, possesses:

(a) In the case of a rifle, a fixed or detachable ammunition feeding device which is attached to or utilized with or capable of being attached to or utilized with such rifle and which has a capacity of more than five cartridges; or

(b) In the case of a shotgun, an ammunition-feeding device which is attached to or utilized with or capable of being attached to or utilized with such shotgun and which has a capacity of more than five cartridges.

(2) A center-fire rifle or shotgun which employs the force of expanding gases from a discharging cartridge to chamber a fresh round after each single pull of the trigger, and which has:

(a) A flash suppressor attached to the weapon reducing muzzle flash;

(b) A grenade launcher;

(c) A sighting device making a target visible at night;

(d) A barrel jacket surrounding all or a portion of the barrel, to dissipate heat therefrom; or

(e) A multi-burst trigger activator.

(3) Any stockless pistol grip shotgun.

(4) For purposes of this section, the term "assault weapon" shall not include any of the following:

(a) Any weapon which has been modified to render it permanently inoperable or permanently make it a device no longer defined as an "assault" weapon.

(b) Weapons that do not use cartridges or shells.

(c) Manually operated bolt-action weapons, lever-action weapons, slide-action weapons or single-shot weapons.

(d) Multiple-barrel weapons, revolving-cylinder weapons except shotguns, weapons that use exclusively a rotary Mannlicher-style magazine.

(e) Any antique firearm as defined in § 265.00 of the New York State Penal Law or any curio or relic as defined under United States law which is possessed by a licensed collector in accordance with United States law.

**Dispose Of** - To dispose of, give away, give, lease, loan, keep for sale, offer, offer for sale, sell, transfer or otherwise dispose of.

**Drug** - Any substance listed in § 3306 of the Public Health Law of the State of New York.

**Dwelling** - One or more rooms, in a building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons, designed for occupancy by one family for cooking, living and sleeping purposes, as defined in Chapter 511, Zoning, of this Code.

**Firearm** - Any pistol or revolver, or a shotgun having one or more barrels less than 18 inches in length or any weapon made from a shotgun (whether by alteration, modification or otherwise) if such weapon, as modified, has an overall length of less than 26 inches; or a rifle having one or more barrels less than 16 inches in length or any weapon made from a rifle (whether by alteration, modification or otherwise) if such weapon, as modified, has an overall length of less than 26 inches. For purposes of this definition, the length of a barrel on a shotgun or rifle shall be determined by measuring the distance between the muzzle and the face of the bolt, breech or breechlock when closed and when the shotgun or rifle is cocked; the overall length of a weapon made from a shotgun or rifle is the distance between the extreme ends of the weapon measured along a line parallel to the center line of the bore. Such definition, except as otherwise indicated, shall include both loaded and unloaded firearms, except that it shall not include any antique firearm as defined in federal or New York State law or any curio or relic as defined under United States law which is possessed by a licensed collector in accordance with United States law.

**Locking Device** - A design adaptation or attachable accessory that will prevent the use of the firearm, rifle or shotgun by an unauthorized user, and includes but is not limited to a trigger lock, which prevents the pulling of the trigger without the use of a key, or a combination handle, which prevents the use of the firearm, rifle or shotgun without the alignment of the combination tumblers.

**Possess** - Have physical possession or otherwise to exercise dominion or control over. The presence in an automobile of any firearm, rifle or shotgun which is openly visible is presumptive evidence of its possession by all persons occupying such automobile at the time such firearm, rifle or shotgun is found, except if such firearm, rifle or shotgun is found in a vehicle for hire.

**Public Place** - Any street, including the sidewalk portion thereof, park, playground, recreation area, cemetery or lot owned, leased, operated or controlled by or on behalf of any government, municipality or public authority or corporation within the boundaries of the city, which is generally accessible to the public, except grounds used for educational purposes.

**Public Facility** - Any building or facility owned, leased, operated or controlled by or on behalf of any government, municipality or public authority or corporation within the boundaries of the city, except buildings or facilities used for educational purposes.

**Rifle** - A weapon designed or redesigned, made or remade and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

**Shotgun** - A weapon designed or redesigned, made or remade and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

C. No person shall possess a loaded or unloaded firearm, rifle, shotgun or air gun, or a dagger, dangerous knife, dirk, razor or stiletto, in a public place or public facility in the city. This prohibition shall not apply to:

(1) A police officer or peace officer authorized to possess the same.

(2) A government employee or licensed security guard authorized or required by employment or office to possess the same while acting within the scope of such employment.

(3) A person in the military service of the State of New York or the United States when duly authorized to possess the same.

(4) A person transporting a rifle or shotgun in a motor vehicle in the city in accordance with the provisions of § 11-0931, Subdivision 2, of the New York State Environmental Conservation Law, or otherwise transporting an unloaded rifle, shotgun or air gun in the city, provided that the same is completely enclosed or contained in a nontransparent carrying case and either:

(a) Said carrying case is locked; or

(b) A locking device is attached to the weapon and locked in a manner so as to prevent the weapon from being fired.

(5) An authorized person who, for the purpose of shooting practice, possesses a weapon at an established target range in a public place other than a park or public facility.

(6) A person voluntarily surrendering the same in accordance with the provisions of Section 265.20 of the Penal law.

(7) Possession of a firearm by a person licensed to carry a firearm pursuant to § 400.00 of the Penal Law or possession or transportation by a gunsmith or dealer in firearms in accordance with a license issued by the State of New York or the United States, except that this subsection shall not apply in a park or a public facility other than a parking garage.

D. No person shall store a firearm, rifle, shotgun or air gun in a dwelling in the city unless said firearm, rifle, shotgun or air gun is completely enclosed or contained in a nontransparent locked carrying case or in a locked gun rack, cabinet, closet or safe, or a locking device is attached to the weapon and locked in a manner so as to prevent the weapon from being fired. This requirement shall not apply to a rifle, shotgun or licensed firearm carried on the body of the owner or within such close proximity of the owner that the owner can retrieve it as quickly and easily as if it were carried on the owner's body.

E. No person shall dispose of any firearm, rifle, shotgun, air gun or ammunition in the city. This prohibition shall not apply to:

(1) A gunsmith or dealer in firearms duly licensed by the State of New York or the United States.

(2) A person disposing of the same to a gunsmith or dealer in firearms duly licensed by the State of New York or the United States.

(3) A person voluntarily surrendering the same in accordance with the provisions of § 265.20 of the Penal Law.

(4) A person disposing of a licensed firearm in accordance with law.

(5) Disposition by intestate or testamentary bequest.

(6) A person disposing of a rifle, shotgun, air gun or ammunition to a family member.

F. No person shall possess an assault weapon or an ammunition-feeding device in the city. This prohibition shall not apply to:

(1) A police officer or peace officer authorized to possess the same.

(2) A person in the military service of the State of New York or the United States when duly authorized to possess the same.

(3) A person voluntarily surrendering the same in accordance with the provisions of § 265.20 of the Penal law.

(4) A gunsmith or dealer in firearms duly licensed by the State of New York or the United States for weapons to be used by police officers or persons in the military service or for delivery outside of the city.

G. No person shall dispose of an assault weapon or ammunition-feeding device in the city. This prohibition shall not apply to:

(1) A person voluntarily surrendering the same in accordance with the provisions of § 265.20 of the Penal Law.

(2) A gunsmith or dealer in firearms duly licensed by the State of New York or the United States for weapons to be used by police offices or persons in the military service or for delivery outside of the city.

H. No person shall carry a firearm, shotgun, rifle or air gun in the city while such person has 1/10 of 1% or more by weight of alcohol in the person's blood as shown by chemical analysis of the person's blood, breath, urine or saliva.

I. No person shall carry a firearm, shotgun, rifle or air gun in the city while in an intoxicated condition.

J. No person shall carry a firearm, shotgun, rifle or air gun in the city while the person's ability to safely carry such weapon is impaired by the use of a drug.

K. Any person who carries a firearm, shotgun, rifle or air gun in the city shall be deemed to have given consent to a breath test and a chemical test of the person's breath, blood, urine or saliva for the purpose of determining the alcoholic or drug content of the person's blood, provided that any test is administered at the direction of a police officer having reasonable grounds therefore. ...

**L. Discharge of weapons; permits. ...**

**M. Penalties for offenses.** A violation of any provision of this section shall be punishable by a fine not to exceed \$1,500 or by imprisonment not to exceed 15 days, or by both such fine and imprisonment. ....

**180-2. Carrying loaded shotgun or rifle; exceptions.** Nothing herein contained shall be construed to prohibit the possession, custody or use of said shotgun or rifle for the lawful purpose of self-defense or the defense of others.

[Code of the City of Buffalo current as of Sept. 5, 2001]

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## Administrative Code of the City of New York

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### Title 10. Public Safety Chapter 1. Public Safety

#### 10-131 Firearms.

##### a. Pistols or revolvers, keeping or carrying.

1. The police commissioner shall grant and issue licenses hereunder pursuant to the provisions of article four hundred of the penal law. Unless they indicate otherwise, such licenses and permits shall expire on the first day of the second January after the date of issuance.

2. Every license to carry or possess a pistol or revolver in the city may be issued for a term of no less than one or more than three years. Every applicant for a license to carry or possess a pistol or revolver in the city shall pay therefor, a fee of one hundred seventy dollars for each original or renewal application for a two year license period or part thereof and a fee often dollars for each replacement application of a lost license. If a license or renewal is issued for a term of more than two years there shall be an additional prorated fee for the period in excess of two years.

3. Every applicant to whom a license has been issued by any person other than the police commissioner, except as provided in paragraph five of this subdivision for a special permit from the commissioner granting it validity within the city of New York shall pay for such permit a fee of one hundred seventy dollars, for each renewal a fee of one hundred seventy dollars, and for each replacement of a lost permit a fee of ten dollars.

4. Fees paid as provided herein shall not be refunded in the event that an original or renewal application, or a special validation permit application, is denied by the police commissioner.

5. A fee shall not be charged or collected for a license to have and carry concealed a pistol or revolver which shall be issued upon the application of the commissioner of correction or the warden or superintendent of any prison, penitentiary, workhouse or other institution for the detention of persons convicted or accused of crime or offense, or held as witnesses in criminal cases in the city.

6. The fees prescribed by this subdivision shall be collected by the police commissioner. ...

##### b. Air pistols and air rifles; selling or possessing.

1. It shall be unlawful for any person to sell, offer to sell or have in such person's possession any air pistol or air rifle or similar instrument in which the propelling force is a spring or air, except that the sale of such instruments if accompanied by delivery to a point without the city, and possession for such purpose, shall not be unlawful if such person shall have secured an annual license from the police commissioner of the city authorizing such sale and possession. The sale and delivery of such instruments within the city from one licensee to another licensee, and the use of such instruments in connection with an amusement licensed by the department of consumer affairs or at rifle or pistol ranges duly authorized by law shall not be considered a violation of this subdivision.

2. All persons dealing in such instruments referred to in this subdivision, shall keep a record showing the name and address of each person purchasing such instrument or instruments, together with place of delivery and said record shall be open to inspection during regular business hours by the officers of the police department of the city.

3. Every person to whom a license shall be granted to sell, possess and deliver the instru-

ments described in this subdivision shall pay therefor an annual fee of ten dollars.

**c. Discharge of small-arms.** It shall be unlawful for any person to fire or discharge any gun, pistol, rifle, fowling-piece or other firearms in the city; provided that the provisions hereof shall not apply to premises designated by the police commissioner, a list of which shall be filed with the city clerk and published in the City Record.

**d. Sale of toy-pistols.** It shall be unlawful for any person to sell or dispose of to a minor any toy-pistol or pistol that can be loaded with powder and ball or blank cartridge to be exploded by means of metal caps; but nothing herein contained shall apply to the sale or disposal of what are known as firecracker pistols, torpedo pistols or such pistols as are used for the explosion of paper caps.

**e. Tear gas; sale or possession of; fees for permits. ...**

**f. Violations.** Except as is otherwise specifically provided in this section, any person who shall willfully violate any of the provisions of this section shall, upon conviction, be punishable by a fine of not more than fifty dollars, or by imprisonment not exceeding thirty days, or by both such fine and imprisonment.

**g. 1.** It shall be unlawful for any person to sell or offer for sell, possess or use or attempt to use or give away, any toy or imitation firearm which substantially duplicates or can reasonably be perceived to be an actual firearm unless:

(a) the entire exterior surface of such toy or imitation firearm is colored white, bright red, bright orange, bright yellow, bright green, bright blue, bright pink or bright purple, either singly or as the predominant color in combination with other colors in any pattern; or

(b) such toy or imitation firearm is constructed entirely of transparent or translucent materials which permits unmistakable observation of the imitation or toy firearm's complete contents; and

(c) the barrel of such toy or imitation firearm, other than the barrel of any such toy or imitation firearm that is a water gun, is closed with the same material of which the toy or imitation firearm is made for a distance of not less than one-half inch from the front end of said barrel, and;

(d) such toy or imitation firearm has legibly stamped thereon, the name of the manufacturer or some trade name, mark or brand by which the manufacturer can be readily identified; and

(e) such toy or imitation or firearm does not have attached thereto a laser pointer, as defined in paragraph one of subdivision a of section 10-134.2 of this code.

2. Paragraph one of this subdivision shall not apply to:

(a) the possession or display of toy or imitation firearms by a manufacturer or dealer solely for purposes of sales that are accompanied by delivery to a point without the city;

(b) any toy or imitation firearm that will be used only for or in the production of television programs or theatrical or motion picture presentations, provided, however, that such use of any toy or imitation firearm complies with all applicable laws, rules or regulations concerning request and receipt of waivers authorizing such use;

(c) non-firing collector replica antique firearms, which look authentic and may be a scale model but are not intended as toys modeled on real firearms designed, manufactured and produced prior to 1898;

(d) decorative, ornamental, and miniature objects having the appearance, shape and/or

configuration of a firearm, including those intended to be displayed on a desk or worn on items such as bracelets, necklaces and key chains, provided that the objects measure no more than thirty-eight (38) millimeters in height by seventy (70) millimeters in length, the length measurement excluding any gun stock length measurement.

3. Authorized agents and employees of the department of consumer affairs, and of any other agency designated by the mayor, shall have the authority to enforce the provisions of this subdivision. A proceeding to recover any civil penalty pursuant to this subdivision shall be commenced by service of a notice of hearing that shall be returnable to the administrative tribunal of the department of consumer affairs. The administrative tribunal of such department shall have the power to impose civil penalties for a violation of this subdivision of not more than one thousand dollars (\$1000).

4. Any person who shall violate this subdivision shall be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1000) or imprisonment not exceeding one (1) year or both.

**h. Rifles and shotguns; carrying or possessing.**

1. It shall be unlawful for any person to carry or possess a loaded rifle or shotgun in public within the city limits. Any person who shall violate this paragraph shall be guilty of a misdemeanor punishable by a fine of not more than one thousand dollars, or imprisonment not exceeding one year, or by both such fine and imprisonment.

2. It shall be unlawful for any person to carry or possess an unloaded rifle or shotgun in public within the city limits unless such rifle or shotgun is completely enclosed, or contained, in a non-transparent carrying case. Any person who shall violate this paragraph shall be guilty of an offense punishable by a fine of not more than fifty dollars or by imprisonment not exceeding thirty days, or by both such fine and imprisonment.

3. The above provisions shall not apply to persons in the military service of the state of New York when duly authorized by regulations issued by the chief of staff to the governor to possess same, police officers and peace officers as defined in the criminal procedure law, or to participants in special events when authorized by the police commissioner.

i. 1. It shall be unlawful for any person, except as otherwise authorized pursuant to law, to dispose of any ammunition or any ammunition feeding device, as defined in section 10-301, designed for use in a firearm, rifle or shotgun, unless he or she is a dealer in firearms or a dealer in rifles and shotguns and such disposition is in accordance with law, provided that a person in lawful possession of such ammunition or ammunition feeding device may dispose of such ammunition or ammunition feeding device to a dealer in firearms who is authorized, or a dealer in rifles and shotguns who is authorized, to possess such ammunition or ammunition feeding device.

2. It shall be unlawful for any dealer in firearms or dealer in rifles and shotguns to dispose of any pistol or revolver ammunition of a particular caliber to any person not authorized to possess a pistol or revolver of such caliber within the city of New York.

3. It shall be unlawful for any person not authorized to possess a pistol or revolver within the city of New York to possess pistol or revolver ammunition, provided that a dealer in rifles and shotguns may possess such ammunition.

4. It shall be unlawful for any person authorized to possess a pistol or revolver of a particular caliber within the city of New York to possess pistol or revolver ammunition of a different caliber.

5. Notwithstanding the provisions of paragraphs two, three and four of this subdivision, any person authorized to possess a rifle within the city of New York may possess ammunition suitable for use in such rifle and a dealer in firearms or dealer in rifles and shotguns may dispose of such ammunition to such person pursuant to section 10-306.

6. It shall be unlawful for any person to possess any ammunition feeding device designed for use in a firearm except as provided in subparagraphs (a), (b), (c), (d) and (e) of this paragraph.

(a) Any pistol or revolver licensee or permittee may possess an ammunition feeding device designed for use in the pistol or revolver such licensee or permittee is authorized to possess, provided that such ammunition feeding device is not capable of holding more than seventeen rounds of ammunition and provided further that such ammunition feeding device does not extend below the grip of the pistol or revolver.

(b) Any person who is exempt pursuant to section 265.20 of the penal law from provisions of the penal law relating to possession of a firearm and who is authorized pursuant to any provision of law to possess a firearm without a license or permit therefor, may possess an ammunition feeding device suitable for use in such firearm, subject to the same conditions as apply with respect to such person's possession of such firearm.

(c) Any dealer in firearms may possess such ammunition feeding devices for the purpose of disposition authorized pursuant to paragraph seven of this subdivision.

(d) Any person who leases a firearm that has been certified by the commissioner as deactivated, from a dealer in firearms or a special theatrical dealer, for use during the course of any television, movie, stage or other similar theatrical production, or any professional photographer who leases a firearm that has been certified by the commissioner as deactivated, from a dealer in firearms or a special theatrical dealer, for use in the pursuance of his or her profession, may possess an ammunition feeding device suitable for use in such firearm, subject to the same conditions as apply with respect to such person's possession of such firearm.

(e) Any special theatrical dealer may possess such ammunition feeding devices exclusively for the purpose of leasing such ammunition feeding devices to such persons as are described in subparagraph (d) of this paragraph.

7. It shall be unlawful for any person to dispose of to another person any ammunition feeding device designed for use in a firearm, provided that a dealer in firearms may dispose of, to such persons as are described in subparagraphs (a) and (b) of paragraph six of this subdivision, such ammunition feeding devices as may be possessed by such persons and provided further that a person in lawful possession of such ammunition feeding devices may dispose of such ammunition feeding devices to a dealer in firearms. In addition, a dealer in firearms or a special theatrical dealer may lease, to such persons as are described in subparagraph (d) of paragraph six of this subdivision, such ammunition feeding devices as may be possessed by such persons.

8. Notwithstanding the provisions of paragraphs six and seven of this subdivision any per-



son may, within ninety days of the effective date of this local law, dispose of an ammunition feeding device designed for use in a firearm to a dealer in firearms.

9. The regular and ordinary transport of ammunition or ammunition feeding devices as merchandise shall not be limited by this subdivision, provided that the person transporting such ammunition or ammunition feeding devices, where he or she knows or has reasonable means of ascertaining what he or she is transporting, notifies, in writing, the police commissioner of the name and address of the consignee and the place of delivery, and withholds delivery to the consignee for such reasonable period of time designated in writing by the police commissioner as the police commissioner may deem necessary for investigation as to whether the consignee may lawfully receive and possess such ammunition or ammunition feeding devices.

10. The regular and ordinary transport of ammunition or ammunition feeding devices by a manufacturer of ammunition or ammunition feeding devices, or by an agent or employee of such manufacturer who is duly authorized in writing by such manufacturer to transport ammunition or ammunition feeding devices on the date or dates specified, directly between places where the manufacturer regularly conducts business, provided such ammunition or ammunition feeding devices are transported in a locked opaque container, shall not be limited by this subdivision, provided that transportation of such ammunition or ammunition feeding devices into, out of or within the city of New York may be done only with the consent of the police commissioner of the city of New York. To obtain such consent, the manufacturer must notify the police commissioner in writing of the name and address of the transporting manufacturer, or agent or employee of the manufacturer who is authorized in writing by such manufacturer to transport ammunition or ammunition feeding devices, the quantity, caliber and type of ammunition or ammunition feeding devices to be transported and the place where the manufacturer regularly conducts business within the city of New York and such other information as the commissioner may deem necessary. The manufacturer shall not transport such ammunition or ammunition feeding devices between the designated places of business for such reasonable period of time designated in writing by the police commissioner as such official may deem necessary for investigation and to give consent. The police commissioner may not unreasonably withhold his or her consent. For the purposes of this paragraph, places where the manufacturer regularly conducts business include, but are not limited to, places where the manufacturer regularly or customarily conducts development or design of ammunition or ammunition feeding devices, or regularly or customarily conducts tests on ammunition or ammunition feeding devices.

11. A person shall be deemed authorized to possess a pistol or revolver within the city of New York if such person is authorized to possess a pistol or revolver within the city of New York pursuant to this section, section 10-302 or section 400.00 of the penal law, or is exempt pursuant to section 265.20 of the penal law from provisions of the penal law relating to possession of a firearm and is authorized pursuant to any provision of law to possess a pistol or revolver within the city of New York without a license or permit therefor. A person shall be deemed authorized to possess a rifle within the city of New York if such person is authorized to possess a rifle within the city of New York pursuant to section 10-303, or is a person permitted pursuant to section 10-305 to possess a rifle without a permit therefor.

12. No pistol or revolver ammunition or ammunition feeding device shall be disposed of to any person pursuant to this subdivision unless such person exhibits the license or permit authorizing him or her to possess a pistol or revolver within the city of New York or exhibits proof that he or she is exempt pursuant to section 265.20 of the penal law from provisions of the penal law relating to possession of a firearm and proof that he or she is authorized pursuant to any provision of law to possess a pistol or revolver within the city of New York without a license or permit therefor.

13. A record shall be kept by the dealer of each disposition of ammunition or ammunition feeding devices under this subdivision which shall show the quantity, caliber and type of ammunition or ammunition feeding devices disposed of, the name and address of the person receiving same, the date and time of the transaction, and the number of the license or permit exhibited or description of the proof of status as a person not required to have a license or permit as required by paragraph twelve of this subdivision.

14. Any person who shall violate this subdivision shall be guilty of a misdemeanor punishable by a fine of not more than one thousand dollars or by imprisonment not exceeding one year, or by both such fine and imprisonment.

15. Any person who shall violate this subdivision shall be liable for a civil penalty of not more than one thousand dollars, to be recovered in a civil action brought by the corporation counsel in the name of the city in any court of competent jurisdiction.

16. The provisions of paragraph three, four and six of this subdivision shall not apply to a person voluntarily surrendering ammunition or ammunition feeding devices, provided that such surrender shall be made to the police commissioner or the commissioner's designee; and provided, further, that the same shall be surrendered by such person only after he or she gives notice in writing to the police commissioner or the commissioner's designee, stating his or her name, address, the nature of the property to be surrendered, and the approximate time of day and the place where such surrender shall take place. Such notice shall be acknowledged immediately upon receipt thereof by such authority. Nothing in this paragraph shall be construed as granting immunity from prosecution for any crime or offense except that of unlawful possession of such ammunition or ammunition feeding devices surrendered as herein provided. A person who possesses any such ammunition or ammunition feeding devices as an executor or administrator or any other lawful possessor of such property of a decedent may continue to possess such property for a period of not over fifteen days. If such property is not lawfully disposed of within such period, the possessor shall deliver it to the police commissioner or the commissioner's designee or such property may be delivered to the superintendent of state police. When such property is delivered to the police commissioner or the commissioner's designee, such officer shall hold it and shall thereafter deliver it on the written request of such executor, administrator or other lawful possessor of such property to a named person, provided such named person is licensed to or is otherwise lawfully permitted to possess the same. If no request to deliver the property is received within two years of the delivery of such property to such official, he or she shall dispose of it in accordance with the provisions of section 400.05 of the penal law.

cordance with the provisions of section 400.05 of the penal law.

#### **10-135. Prohibition on sale and possession of electronic stun guns.**

a. As used in this section, "electronic stun gun" shall mean any device designed primarily as a weapon, the purpose of which is to stun, render unconscious or paralyze a person by passing an electronic shock to such person, but shall not include an "electronic dart gun" as such term is defined in section 265.00 of the penal law.

b. It shall be unlawful for any person to sell or offer for sale or to have in his or her possession within the jurisdiction of the city any electronic stun gun.

c. Violation of this section shall be a class A misdemeanor.

d. The provisions of this section prohibiting the possession of electronic stun gun shall not apply to police officers as defined in the criminal procedure law, who are operating under regular department procedure or operation guidelines established by their department.

e. The provisions of this section shall not apply to manufacturers of electronic stun guns or importers and exporters or merchants of electronic stun guns, when such guns are scheduled to travel in the course of international, interstate, or intrastate commerce to a point outside the city. Such bulk shipments shall remain in their original shipping package, unopened, except for inspection and possible subdivision for further movement in interstate or intrastate commerce to a point outside the city. [Exemptions under this section are provided for police officers operating under regular department procedure or guidelines and for manufacturers of electronic stun guns scheduled for bulk shipment.]

### **Chapter 3. Firearms**

#### **10-301. Control and regulation of the disposition, purchase and possession of firearms, rifles, shotguns, and assault weapons.**

**Definitions.** Whenever used in this chapter the following terms shall mean and include:

##### **1. "Firearm."**

- (a) Any pistol or revolver;
- (b) a shotgun having one or more barrels less than eighteen inches in length; or
- (c) a rifle having one or more barrels less than sixteen inches in length;

(d) any weapon made from a shotgun or rifle whether by alteration, modification, or otherwise if such weapon as altered, modified, or otherwise has an overall length of less than twenty-six inches. For the purpose of this subdivision the length of the barrel on a shotgun or rifle shall be determined by measuring the distance between the muzzle and the face of the bolt, breech, or breechlock when closed and when the shotgun or rifle is cocked; the over-all length of a weapon made from a shotgun or rifle is the distance between the extreme ends of the weapon measured along a line parallel to the center line of the bore. Firearm does not include an antique firearm. The provisions of this chapter relating to firearms shall not apply to assault weapons except as specifically provided.

**2. "Rifle."** A weapon designed or redesigned, made or remade, and intended to be fired from the shoulder, and, even if not designed or redesigned, made or remade, and intended to be fired from the shoulder, is not a firearm as defined in subdivision one of this section, and designed or redesigned and made or remade to use the energy of the explosive in a fixed

metallic cartridge to fire only a single projectile through a rifled bore for each pull of the trigger. The provisions of this chapter relating to rifles shall not apply to assault weapons except as specifically provided.

**3. "Shotgun."** A weapon designed or redesigned, made or remade, and intended to be fired from the shoulder, and even if not designed or redesigned, made or remade, and intended to be fired from shoulder, is not a firearm as defined in subdivision one of this section, and designed or redesigned and made or remade to, use the energy of the explosive in a fixed shotgun shell, to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger. The provisions of this chapter relating to shotguns shall not apply to assault weapons except as specifically provided.

**4. "Gunsmith."** Any person, firm, partnership, corporation, or company who engages in the business of repairing, altering, assembling, manufacturing, cleaning, polishing, engraving, or trueing, or who in the course of such business performs any mechanical operation on any rifle, shotgun, firearm, assault weapon or machinegun.

**5. "Dealer in firearms."** Any person, firm, partnership, corporation or company who engages in the business of purchasing, selling, keeping for sale, loaning, leasing, or in any manner disposing of any pistol or revolver or other firearms which may be concealed upon the person. Dealer in firearms shall not include a wholesale dealer.

**6. "Dealer in rifles and shotguns."** Any person, firm, partnership, corporation or company who engages in the business of purchasing, selling, keeping for sale, loaning, leasing, or in any manner disposing of any rifle, or shotgun. Dealer in rifles and shotguns shall not include a wholesale dealer.

**7. "Ammunition."** Explosives suitable to be fired from a firearm, machinegun, pistol, revolver, rifle, shotgun, assault weapon or other dangerous weapon.

**8. "Dispose of."** To dispose of, give away, give, lease, loan, keep for sale, offer, offer for sale, sell, transfer and otherwise dispose of.

**9. "Deface."** To remove, deface, cover, alter, or destroy the manufacturer's serial number or any other distinguishing number or identification mark.

**10. "Commissioner."** The police commissioner of the city of New York, or the commissioner's designee.

**11. "Permit."** The permit for purchase and possession of rifles and shotguns issued by the commissioner.

**12. "Certificate."** The certificate of registration for possession of rifles and shotguns.

**13. "Serious offense."** A serious offense as defined in subdivision seventeen of section 265.00 of the penal law.

**14. "Business enterprise."** Any proprietorship, company, partnership, corporation, association, cooperative, nonprofit organization or other entity engaged or seeking to engage in the activities regulated pursuant to section 10-302 of this chapter.

**15. "Semiautomatic."** Any firearm, rifle or shotgun that uses part of the energy of a fired cartridge to expel the case of the fired cartridge and load another cartridge into the firing chamber, and which requires a separate pull of the trigger to fire each cartridge.

**16. "Assault weapon."**

(a) Any semi-automatic centerfire or rimfire rifle or semi-automatic shotgun which has one or more of the following features:

1. folding or telescoping stock or no stock;
2. pistol grip that protrudes conspicuously beneath the action of the weapon;
3. bayonet mount;
4. flash suppressor or threaded barrel designed to accommodate a flash suppressor;
5. barrel shroud;
6. grenade launcher; or
7. modifications of such features, or other features, determined by rule of the commissioner to be particularly suitable for military and not sporting purposes. In addition, the commissioner shall, by rule, designate specific semi-automatic centerfire or rimfire rifles or semiautomatic shotguns, identified by make, model and/or manufacturer's name, as within the definition of assault weapon, if the commissioner determines that such weapons are particularly suitable for military and not sporting purposes.

(b) Any shotgun with a revolving-cylinder magazine.

(c) Any part, or combination of parts, designed or redesigned or intended to readily convert a rifle or shotgun into an assault weapon.

(d) "Assault weapon" shall not include any rifle or shotgun modified to render it permanently inoperative.

**17. "Ammunition feeding device."** Magazines, belts, feedstrips, drums or clips capable of being attached to or utilized with firearms, rifles, shotguns or assault weapons.

**18. "Antique firearm."** Any unloaded muzzle loading pistol or revolver with a matchlock, flintlock, percussion cap, or similar type of ignition system, or a pistol or revolver which uses fixed cartridges which are no longer available in the ordinary channels of commercial trade.

**19. "Special theatrical dealer."** Any person, firm, partnership, corporation or company who possesses assault weapons exclusively for the purpose of leasing such assault weapons to special theatrical permittees within the city and for theatrical purposes outside the city.

**10-302. Licensing of gunsmiths, of wholesale manufacturers of firearms, of assemblers of firearms, dealers in firearms, dealers in rifles and shotguns, and special theatrical dealers.**

a. It shall be unlawful for any person or business enterprise to engage in the business of gunsmith, wholesale manufacturer of firearms, assembler of firearms, dealer in firearms, dealer in rifles and shotguns, or special theatrical dealer, unless such person, or business enterprise, has obtained a license to engage in such business in the manner prescribed in this section. No person shall engage in the business of dealer in rifles and shotguns or special theatrical dealer unless he or she has been issued a permit for the possession of shotguns and rifles pursuant to the provisions of this chapter. No person or business enterprise shall be eligible to apply for or to hold a license as a special theatrical dealer unless such person or business enterprise (1) possesses both a license as a dealer in firearms and a license as a dealer in rifles and shotguns and (2) has possessed such licenses and engaged in such business for at least one year.

b. No license shall be issued or renewed pursuant to this section except by the police commissioner, and then only after investigation and finding that all statements in a proper application for a license or renewal are true. No license shall be issued or renewed except for any applicant:

- (1) of good moral character;

(2) who has not been convicted anywhere of a felony or of any serious offense;

(3) who has stated whether he or she has ever suffered any mental illness or been confined to any hospital or institution, public or private, for mental illness and who is free from any mental disorder, defects or diseases that would impair the ability safely to possess or use a firearm, rifle or shotgun; and

(4) concerning whom no good cause exists for the denial of a license.

c. (1) An applicant to engage in such business shall also be a citizen of the United States, more than twenty-one years of age and maintain a place of business in the city.

(2) Each applicant to engage in such business shall comply with all the requirements set forth in this section. If the applicant is a partnership, each partner thereof shall comply with all the requirements set forth in this section and if the applicant is a corporation, each officer thereof shall so comply.

(3) No applicant for a special theatrical dealer's license or renewal thereof shall be issued such license or renewal unless the applicant submits proof, in such form as the commissioner may require, that at least ten percent of the gross income earned by the applicant as a dealer in firearms, dealer in rifles and shotguns and, in the case of an application for renewal, special theatrical dealer, in the year preceding the application for such license or renewal, was earned from the lease for theatrical purposes of such ammunition feeding devices, firearms, rifles, shotguns or assault weapons as the applicant was authorized to lease. No applicant for a special theatrical dealer's license or renewal thereof shall be issued such license or renewal unless the gross income earned by the applicant as a dealer in firearms, dealer in rifles and shotguns and, in the case of an application for renewal, special theatrical dealer, in the year preceding the application for such license or renewal, exceeded fifty thousand dollars.

d. An application for a license or renewal thereof shall be made to the police commissioner. An application shall include the full name, date of birth, residence, present occupation of each person or individual signing the same, whether he or she is a citizen of the United States, whether he or she complies with each requirement for eligibility specified in subdivision b of this section and such other facts as may be required to show the good character, competency and integrity of each person or individual signing the application. An application shall be signed and affirmed by the applicant. Each individual signing an application shall submit one photograph of himself or herself and a duplicate for each required copy of the application. Such photographs shall have been taken within thirty days prior to filing the application. The photographs submitted shall be two inches square, and the application shall also state the previous occupation of each individual signing the same and the location of the place of such business, or of the bureau, agency, subagency, office or branch office for which the license is sought, indicating the street and number and otherwise giving such apt description as to point out reasonably the location thereof. In such case, if the applicant is a business enterprise, its name, date and place of formation, and principal place of business shall be stated. For a partnership, the application shall be signed and affirmed by each partner, and for a corporation, by each officer thereof. With respect to an application for a license as a dealer in rifles and shotguns or as a special theatrical dealer, a written statement

shall be submitted by the individual applicant, or in the case of a business enterprise a responsible officer or agent thereof, stating (a) the identification number of the shotgun and rifle permit issued to the individual applicant or the responsible officer or agent in the case of a business enterprise, (b) the address of a regular place of business maintained by the applicant, (c) that since the issuance of the rifle and shotgun permit the individual applicant or responsible officer or agent has not become disqualified for issuance of such a permit, (d) that he or she undertakes to supervise the acts of his or her, or in the case of a business enterprise, its employees, (e) that the applicant has not previously been refused a license as a dealer in shotguns and rifles or as a special theatrical dealer and that no such license issued to the applicant has ever been revoked.

e. Before a license is issued or renewed, there shall be an investigation of all statements required in the application by the police department. For that purpose, the records of the department of mental hygiene concerning previous or present mental illness of the applicant shall be available for inspection by the investigating officer of the police department. In order to ascertain any previous criminal record, the investigating officer shall take the fingerprints and physical descriptive data in quadruplicate of each individual by whom the application is signed. Two copies of such fingerprints shall be taken on standard fingerprint cards eight inches square, and one copy may be taken on a card supplied for that purpose by the federal bureau of investigation. When completed, one standard card shall be promptly submitted to the division of criminal justice services where it shall be appropriately processed. A second standard card, or the one supplied by the federal bureau of investigation, as the case may be, shall be forwarded to that bureau at Washington with a request that the files of the bureau be searched and notification of the results of the search be made to the police department. The failure or refusal of the federal bureau of investigation to make the fingerprint check provided for in this section shall not constitute the sole basis for refusal to issue a license pursuant to the provisions of this section. Of the remaining two fingerprint cards, one shall be filed with the executive department, division of state police, Albany, within ten days after issuance of the license, and the other remain on file with the police department. No such fingerprints may be inspected by any person other than a peace officer, when acting pursuant to his or her special duties, or a police officer except on order of a judge or justice of a court of record either upon notice to the licensee or without notice, as the judge or justice may deem appropriate. Upon completion of the investigation, the police department shall report the results to the commissioner without unnecessary delay.

f. Applications shall indicate and licenses shall be issued for a gunsmith, a wholesale manufacturer of firearms, an assembler of firearms, a dealer in firearms, a dealer in rifles and shotguns or a special theatrical dealer.

g. The application for any license, if granted, shall be a public record. Such application shall be kept on file in the office of the police commissioner and, within ten days after the issuance of a license, a duplicate copy shall be filed in the executive department, division of state police, Albany.

h. No license shall be transferable to any other person or premises. The license shall mention and describe the premises for which it

is issued and shall be valid only for such premises.

i. A license issued pursuant to this section shall be prominently displayed on the licensed premises. Failure of any person or business enterprise to so exhibit or display such license shall be presumptive evidence that the person or business enterprise is not duly licensed.

j. Any license or renewal issued pursuant to this section shall expire on the first day of the second January following the date of issuance. Any application to renew a license that has not previously expired, been revoked or cancelled shall thereby extend the term of the license until disposition is made of the application by the police commissioner.

k. The conviction of a licensee anywhere of a felony or a serious offense shall operate as a revocation of the license. Written notice of such revocation shall be forwarded to the executive division of state police in Albany.

l. The police commissioner, upon evidence of any disqualification set forth in subdivision b of this section, may at any time suspend or revoke and cancel a license issued pursuant to this section. Written notice of such suspension or revocation shall be forwarded to the executive department, division of state police, Albany.

m. No license shall be issued pursuant to this section unless the applicant therefor possesses and exhibits all licenses required under any federal or state law.

#### **n. Records.**

(1) Any person licensed under this section shall keep an accurate book record of every transaction involving a firearm, machinegun, rifle, shotgun or assault weapon. Such record shall be kept in the manner prescribed and contain the information required by the police commissioner.

(2) The records required by this section shall be subject to inspection at all times by members of the police department. Such records shall be maintained on the premises mentioned and described in the license, and preserved for record. In the event of suspension, cancellation or revocation of a license, or discontinuance of business by a licensee, such record shall be immediately surrendered to the police commissioner.

#### **o. Rules and regulations.**

(1) The police commissioner may make and promulgate such rules and regulations regarding the issuance and renewal of such licenses and prescribe such forms as are necessary to carry out the provisions of this section.

(2) Such rules and regulations shall prescribe reasonable standards and conditions under which firearms, component parts of firearms, rifles, shotguns, assault weapons and ammunition shall be kept at the store or premises of gunsmiths, including store and plant security, employment, record keeping and product quality control for the protection of the public safety, health and welfare. The foregoing enumeration shall not be construed as a limitation of the police commissioner's authority to promulgate rules and regulations hereunder.

(3) The violation of such rules and regulations shall be triable by a judge of the criminal court of the city of New York and punishable by not more than thirty days imprisonment or by a fine of not more than fifty dollars, or both.

p. The annual license fee for a license issued pursuant to this section shall be twenty-five dollars for gunsmiths, wholesale manufacturers and assemblers of firearms, fifty dollars for dealers in firearms, and one hundred fifty dollars for dealers in rifles and shotguns and special theatrical dealers.

q. Failure to obtain a license, by any person, firm, partnership, corporation or company, as required by the provisions of this section shall be punishable as a class A misdemeanor.

r. No dealer in rifles and shotguns may dispose of a rifle or shotgun to any person unless such person produces a valid rifle and shotgun permit, or proof of lawful authority as a police or peace officer, or is an exempt person as provided in this chapter.

s. Any suspension, denial or revocation of a license may be appealed by the applicant or licensee pursuant to procedures established by the police commissioner for administrative review.

**10-303. Permits for possession and purchase of rifles and shotguns.** It shall be unlawful to dispose of any rifle or shotgun to any person unless said person is the holder of a permit for possession and purchase of rifles and shotguns; it shall be unlawful for any person to have in his or her possession any rifle or shotgun unless said person is the holder of a permit for the possession and purchase of rifles and shotguns. The disposition of a rifle or shotgun, by any licensed dealer in rifles and shotguns, to any person presenting a valid rifle and shotgun permit issued to such person, shall be conclusive proof of the legality of such disposition by the dealer.

**a. Requirements.** No person shall be denied a permit to purchase and possess a rifle or shotgun unless the applicant:

- (1) is under the age of eighteen; or
- (2) is not of good moral character; or
- (3) has been convicted anywhere of a felony or of a serious offense; or
- (4) has not stated whether he or she has ever suffered any mental illness or been confined to any hospital or institution, public or private, for mental illness; or
- (5) is not now free from any mental disorders, defects or diseases that would impair the ability safely to possess or use a rifle or shotgun; or
- (6) unless good cause exists for the denial of the permit.

**b. Application.** Application for a rifle and shotgun permit shall be made to the police commissioner, shall be signed and affirmed by the applicant and shall state his or her full name, date of birth, residence, physical condition, occupation and whether he or she complies with each requirement specified in subdivision a of this section, and any other information required by the police commissioner to process the application. Each applicant shall submit with his or her application a photograph of himself or herself in duplicate, which shall have been taken within thirty days prior to the filing of the application. Any willful or material omission or false statement shall be a violation of this section and grounds for denial of the application.

c. Before a permit is issued or renewed, the police department shall investigate all statements required in the application. For that purpose, the records of the department of mental hygiene concerning previous or present mental illness of the applicant shall be available for inspection by the investigating officer of the police department. In order to ascertain any previous criminal record, the investigating officer shall take the fingerprints and physical descriptive data in quadruplicate of each individual by whom the application is signed. Two copies of such fingerprints shall be taken on standard fingerprint cards eight inches square, and one copy may be taken on a card supplied for that purpose by the federal bureau of investigation. When completed, one standard card shall be

promptly submitted to the division of criminal justice services where it shall be appropriately processed. A second standard card, or the one supplied by the federal bureau of investigation, as the case may be, shall be forwarded to that bureau at Washington with a request that the files of the bureau be searched and notification of the results of the search be made to the police department. The failure or refusal of the federal bureau of investigation to make the fingerprint check provided for in this section shall not constitute the sole basis for refusal to issue a permit pursuant to the provisions of this section. Of the remaining two fingerprint cards, one shall be filed with the executive department, division of state police, Albany, within ten days after issuance of the permit, and the other remain on file with the police department. No such fingerprints may be inspected by any person other than a peace officer, when acting pursuant to his or her special duties, or a police officer, except on order of a justice of a court of record either upon notice to the permittee or without notice, as the judge or justice may deem appropriate. Upon completion of the investigation, the police department shall report the results to the police commissioner without unnecessary delay.

**d. Fees.** The fee for an application for a rifle and shotgun permit or renewal thereof shall be fifty-five dollars.

**e. Issuance.**

(1) Upon completion of the investigation, and in no event later than thirty days from the submission of the application, unless the police commissioner determines more time is needed for an investigation and then it shall not exceed sixty days, the commissioner shall issue the permit or shall notify the applicant of the denial of the application and the reason or reasons therefor. The applicant shall have the right to appeal said denial pursuant to procedures established by the police commissioner for administrative review.

(2) Any person holding a valid license to carry a concealed weapon in accordance with the provisions of the penal law, shall be issued such permit upon filing an application and upon paying the established fee therefor, without the necessity of any further investigation, affidavits or fingerprinting, unless the police commissioner has reason to believe that the status of the applicant has changed since the issuance of the prior license.

**f. Validity.** Any person to whom a rifle and shotgun permit has been validly issued pursuant to this chapter may possess a rifle or shotgun. No permit shall be transferred to any other person. Every person carrying a rifle or shotgun shall have on his or her person a permit which shall be exhibited for inspection to any peace officer or police officer upon demand. Failure of any such person to so exhibit his or her permit shall be presumptive evidence that he or she is not duly authorized to possess a rifle or shotgun and the same may be considered by the police commissioner as cause for revocation or suspension of such permit. A permit shall be valid for three (3) years and shall be subject to automatic renewal, upon sworn application, and without investigation, unless the police commissioner has reason to believe that the status of the applicant has changed since the previous application.

**g. Revocation or suspension.** A permit shall be revoked upon the conviction in this state, or elsewhere, of a person holding a rifle or shotgun permit, of a felony or a serious offense. A permit may be revoked or suspended at any time upon evidence of any other disqualification set forth in

subdivision a of this section. Upon revocation or suspension of a permit for any reason, the police commissioner shall immediately notify the New York state division of criminal justice services. The police commissioner shall from time to time send a notice and supplemental report hereof, containing the names, addresses and permit numbers of each person whose rifle and shotgun permit has been revoked or suspended to all licensed dealers in rifles and shotguns throughout the city for the purpose of notifying such dealers that no rifles or shotguns may be issued or sold or in any way disposed of to any such persons. The police commissioner or any police officer acting at the police commissioner's direction shall forthwith seize any rifle and shotgun permit which has been revoked or suspended hereunder and shall seize any rifle or shotgun possessed by such person, provided that the person whose rifle or shotgun permit has been revoked or suspended, or such person's appointee or legal representative, shall have the right at any time up to one year after such seizure to dispose of such rifle or shotgun to any licensed dealer or any other person legally permitted to purchase or take possession of such rifle or shotgun. The permittee shall have the right to appeal any suspension or revocation pursuant to procedures established by the commissioner for administrative review.

**h. Non-residents.** Non-residents of the city of New York may apply for a rifle or shotgun permit subject to the same conditions, regulations and requirements as residents of the city of New York.

**10-303.1. Prohibition of the possession or disposition of assault weapons.**

**a.** It shall be unlawful for any person to possess or dispose of any assault weapon within the city of New York, except as provided in subdivision d, e or f of this section or section 10-305. A person who peaceably surrenders an assault weapon to the commissioner pursuant to subdivision d, e or f of this section or subdivision f of section 10-305 shall not be subject to the criminal or civil penalties set forth in this section.

**b. Criminal penalty.** Any person who shall violate subdivision a of this section shall be guilty of an unclassified misdemeanor punishable by a fine of not more than five thousand dollars or by imprisonment of up to one year, or by both fine and imprisonment, for each assault weapon disposed of or possessed, provided that the first violation of subdivision a of this section involving possession of an assault weapon as defined in paragraph c of subdivision 16 of section 10-301 shall be an offense punishable by a fine of not more than three hundred dollars or imprisonment of not more than fifteen days, or both, on condition that (1) such first violation is not in conjunction with the commission of a crime and (2) the possessor has not been previously convicted of a felony or a serious offense.

**c. Civil penalty.** In addition to the penalties prescribed in subdivision b of this section, any person who shall violate subdivision a of this section shall be liable for a civil penalty of not more than ten thousand dollars for each assault weapon disposed of or possessed, to be recovered in a civil action brought by the corporation counsel in the name of the city in any court of competent jurisdiction, provided that the first violation by any person of subdivision a of this section involving possession of an assault weapon as defined in paragraph c of subdivision 16 of section 10-301 shall subject such person to a civil penalty of not more than one thousand dollars on condition that

(1) such first violation is not in conjunction with the commission of a crime and

(2) the possessor has not been previously convicted of a felony or a serious offense.

**d. Disposition of assault weapons by permittees, licensees and previously exempt persons.** Any person who, on or after the effective date of this local law, shall possess an assault weapon and a valid permit for possession and purchase of rifles and shotguns and a certificate of registration for such assault weapon, and any licensed dealer in firearms or licensed dealer in rifles and shotguns who is not licensed as a special theatrical dealer and who, on or after the effective date of this local law, shall possess an assault weapon, and any police officer or peace officer who, before the effective date of this law was exempt from the sections of the administrative code requiring rifle and shotgun permits and certificates, and who, upon the effective date of this local law, is not exempt from the sections of the administrative code prohibiting the possession or disposition of assault weapons, and who, on or after the effective date of this local law, shall possess an assault weapon, shall, within ninety days of the effective date of rules promulgated by the commissioner pursuant to subparagraph 7 of paragraph a of subdivision 16 of section 10-301, either:

(1) peaceably surrender his or her assault weapon pursuant to subdivision f of section 10-305 for the purpose of destruction of such weapon by the commissioner, provided that the commissioner may authorize the use of such weapon by the department; or

(2) lawfully remove such assault weapon from the city of New York. All assault weapons possessed by such permittees, licensees and previously exempt persons shall be subject to the provisions of this subdivision, whether defined as assault weapons in subdivision 16 of section 10-301 or in rules promulgated by the commissioner pursuant to subparagraph 7 of paragraph a of subdivision 16 of section 10-301.

**e. Disposition of assault weapons by non-permittees.** Any person who, on or after the effective date of this local law, shall possess an assault weapon and who is not the holder of a valid permit for possession and purchase of rifles and shotguns and a certificate of registration for such assault weapon, shall peaceably surrender his or her assault weapon pursuant to subdivision f of section 10-305 for the purpose of destruction of such weapon by the commissioner, provided that the commissioner may authorize the use of such weapon by the department, and provided further that heirs and legatees may dispose of assault weapons pursuant to subdivision f of this section.

**f. Disposition of assault weapons by heirs and legatees.** Any person who acquires an assault weapon on or after the effective date of this local law by the laws of intestacy or by testamentary bequest shall, within ninety days of such acquisition, either:

(1) peaceably surrender such assault weapon pursuant to subdivision f of section 10-305 for the purpose of destruction of such weapon by the commissioner, provided that the commissioner may authorize the use of such weapon by the department; or

(2) lawfully remove such assault weapon from the city of New York.

**g.** Within thirty days of the effective date of rules promulgated by the commissioner pursuant to subparagraph 7 of paragraph a of subdivision 16 of section 10-301, the commissioner shall send by regular mail to every person

who has been issued a permit to possess a rifle or shotgun and whose rifle or shotgun the commissioner reasonably believes to be an assault weapon as defined in subdivision 16 of section 10-301 or as defined in such rules, a written notice setting forth the requirements and procedures relating to the disposition of such weapons, and the criminal and civil penalties that may be imposed upon the permittee for unlawful possession or disposition of such weapons. Failure by the commissioner to send, or the permittee to receive, such notice, shall not excuse such permittee for unlawful possession or disposition of such weapons.

#### **10-304. Certificates of registration.**

a. It shall be unlawful for any person to have in his or her possession any rifle or shotgun unless said person is the holder of a certificate of registration for such rifle or shotgun.

b. It shall be unlawful for any person who is not a licensed dealer to dispose of any rifle or shotgun for which such person does not have a certificate of registration unless such person files with the police commissioner a declaration in duplicate, signed and affirmed by the declarant which shall list by caliber, make, model, manufacturer's name and serial number, or if none, any other distinguishing number or identification mark, of each rifle and shotgun possessed by the declarant. Upon receipt of acknowledgement of said declaration by the police commissioner, the declarant may lawfully sell, transfer, or otherwise dispose of such rifles or shotguns to a licensed dealer or any other person legally permitted to purchase or take possession of such rifles or shotguns.

Any willful or material omission or false statement shall be a violation of this section.

c. **Exhibition of certificate.** Every person carrying a rifle or shotgun shall have on his or her person a certificate of registration valid for such weapon. Upon demand, the appropriate certificate shall be exhibited for inspection to any peace officer or police officer. Failure of any person to so exhibit his or her certificate shall be presumptive evidence that he or she is not duly authorized to possess such rifle or shotgun and may be considered by the police commissioner as cause for revocation or suspension of such person's permit.

d. **Revocation.** The revocation of a rifle or shotgun permit shall automatically be deemed to be a revocation of all certificates of registration for rifles and shotguns held by the person whose permit has been revoked.

e. **Disposition of rifles and shotguns.** No person lawfully in possession of a rifle or shotgun shall dispose of same except to a licensed dealer in fire-arms, licensed dealer in rifles and shotguns, the holder of a valid rifle and shotgun permit, an exempt person as enumerated in this chapter, or a non-resident of the city of New York not subject to the permit requirements of this chapter. Any person so disposing of a rifle or shotgun shall report the disposition on forms provided by the commissioner setting forth the rifle and shotgun permit number of both seller and purchaser, the make, caliber, type, model and serial number, if any, and if the seller is a licensed dealer the certificate of registration number, of all such rifles and shotguns. Such form shall be signed by both seller and purchaser and the original shall be forwarded to the police commissioner within 72 hours of the disposition, one copy shall be retained by the seller, another by the purchaser.

1. If the seller is a licensed dealer, he or she shall at the time of the sale issue a certificate of registration to the purchaser provided to the

dealer for that purpose by the police commissioner and shall forward to the police commissioner the duplicate thereof, together with the report of disposition.

2. If the seller is not a licensed dealer, the police commissioner shall, if the purchaser's rifle permit is valid, issue the certificate of registration within ten days of the receipt by the police commissioner of the report of disposition. Pending receipt of the certificate, but in no event for any longer than fourteen days from the date of purchase, the copy of the report of disposition shall serve in lieu of the purchaser's certificate of registration.

f. No fee shall be charged for a certificate of registration.

g. Notwithstanding any other provision of this section concerning the transfer, receipt, acquisition, or any other disposition of a rifle or shotgun, a rifle and shotgun permit shall not be required for the passing of a rifle or shotgun upon the death of an owner, to his or her heir or legatee, whether the same be by testamentary bequest or by the laws of intestacy, except that the person who shall so receive or acquire said rifle or shotgun shall be subject to all other provisions of this chapter, provided further that if the heir or legatee of the owner of such rifle or shotgun does not qualify to possess same under this chapter, the rifle or shotgun may be possessed by the heir or legatee for the purpose of sale as otherwise provided herein for a period not exceeding one hundred eighty days or for such further limited period beyond the one hundred eighty days as may be approved by the commissioner, said extensions in no event to exceed a total of ninety days.

**10-305. Exemptions.** The sections requiring rifle and shotgun permits and certificates and prohibiting the possession or disposition of assault weapons shall not apply as follows:

a. **Minors.** Any person under the age of eighteen years may carry, fire, or use any rifle or shotgun in the actual presence or under the direct supervision of any person who is a holder of a rifle or shotgun permit, or for the purpose of military drill under the auspices of a legally recognized organization and under competent supervision or for the purpose of competition or target practice in and upon a firing range approved by the police commissioner or any other governmental agency authorized to provide such approval, or the national rifle association, which is under competent supervision at the time of such competition or target practice, provided that the rifle or shotgun is otherwise properly registered or exempt from registration by virtue of some other provision of this chapter. This exemption shall not apply to assault weapons.

b. **Antiques and ornaments.** The provisions of this chapter shall not apply to antique rifles and shotguns which are incapable of being fired or discharged or which do not fire fixed ammunition, or those weapons manufactured prior to eighteen hundred ninety-four and those weapons whose design was patented and whose commercial manufacture commenced prior to eighteen hundred ninety-four and whose manufacture continued after eighteen hundred ninety-four without any substantial alteration in design or function, and for which cartridge ammunition is not commercially available and are possessed as curiosities or ornaments or for their historical significance and value. This exemption shall not apply to assault weapons.

c. Persons in the military service in the state of New York, when duly authorized by regulations issued by the chief of staff to the governor

to possess the same, and police officers, provided that such police officers shall not be exempt from the sections prohibiting the possession or disposition of assault weapons except during the performance of their duties as police officers, and other peace officers as defined in section 2.10 of the criminal procedure law, provided that such peace officers (1) are authorized pursuant to law or regulation of the state or city of New York to possess either (a) a firearm within the city of New York without a license or permit therefor, or (b) a rifle, shotgun or assault weapon within the city of New York without a permit therefor; and (2) are authorized by their employer to possess such rifle, shotgun or assault weapon; and (3) shall not possess such rifle, shotgun or assault weapon except during the performance of their duties as peace officers.

d. Persons in the military or other service of the United States, in pursuit of official duty or when duly authorized by federal law, regulation or order to possess the same.

e. Persons employed in fulfilling defense contracts with the government of the United States or agencies thereof when possession of the same is necessary for manufacture, transport, installation and testing under the requirements of such contract. Any such person exempted by subdivisions c, d and e above, may purchase a rifle or shotgun only from a licensed dealer, and must submit to the dealer full and clear proof of identification, including shield number, serial number, military or governmental order or authorization, and military or other official identification. Any dealer who disposes of a rifle or shotgun to any exempt person without securing such identification shall be in violation of these sections.

f. A person may voluntarily surrender a rifle, shotgun or assault weapon to the police commissioner, provided, that the same shall be surrendered by such person only after he or she gives notice in writing to the police commissioner, stating such person's name, address, the type of gun to be surrendered, and the approximate time of day and the place where such surrender shall take place and such time of day and place have been approved in writing by the police commissioner. Nothing in this subdivision shall be construed as granting immunity from prosecution for any crime or offense except that of unlawful possession of such rifle, shotgun or assault weapon.

g. The regular and ordinary transport of rifles, shotguns and assault weapons as merchandise provided that the person transporting such rifles, shotguns and assault weapons where he or she knows or has reasonable means of ascertaining what such person is transporting, notifies, in writing, the police commissioner of the name and address of the consignee and the place of delivery, and withholds delivery to the consignee for such reasonable period of time designated in writing by the police commissioner as the police commissioner may deem necessary for investigation as to whether the consignee may lawfully receive and possess such rifles, shotguns or assault weapons.

h. Possession by retail customers for the purpose of firing at duly licensed rifle target concessions at amusement parks, piers, and similar locations provided that the rifles to be so used be firmly chained or affixed to the counter and that the individual rifles are registered by the proprietor and that the proprietor is in possession of a rifle and shotgun permit. This exemption shall not apply to assault weapons.

**i.(1) Non-residents in transit.** Any other provision of this chapter to the contrary notwithstanding, a non-resident of the city of New York who, without a rifle and shotgun permit issued hereunder, enters the city of New York possessing a rifle or shotgun in the course of transit to a destination outside the city of New York, or a non-resident of the city of New York who enters the city of New York possessing an assault weapon in the course of transit to a destination outside the city of New York, shall have a period of twenty-four hours subsequent to such entering to be exempt from penalty under this chapter for the unlawful possession of a rifle, shotgun or assault weapon, provided that such rifle, shotgun or assault weapon shall at all times be unloaded and in a locked case, or locked auto-mobile trunk, and that said non-resident is lawfully in possession of said rifle or shotgun according to the laws of his or her place of residence.

**(2) Non-residents purchasing a rifle or shotgun from a licensed dealer.** Any other provision of this chapter notwithstanding, a non-resident of the city of New York may purchase a rifle or shotgun from a licensed dealer provided that he or she presents the dealer with documentary evidence of his or her identity and place of residence, and the rifle or shotgun purchased is either personally delivered to the purchaser or transmitted by the dealer directly to the purchaser's residence. In the event the purchaser is traveling from the city by rail, ship or plane, the dealer is hereby authorized to deliver such rifle or shotgun at the appropriate terminal to a representative of the railroad, airline or shipping company, for placement aboard such train, plane or ship. If the rifle or shotgun is personally delivered to the non-resident purchaser within the city of New York, the purchaser shall have the rifle or shotgun removed from the city no later than twenty-four hours after the time of purchase. This exemption shall not apply to assault weapons.

**j.** Nothing herein contained shall be construed to be a prohibition of the conduct of business by manufacturers, wholesale dealers, interstate shippers, or any other individuals or firms properly licensed by the federal government, where such prohibition would be preempted by federal law.

**k. Special theatrical permit.** Nothing herein contained is intended to prevent the possession or utilization of any rifle, shotgun or assault weapon during the course of any television, movie, stage or other similar theatrical production, or by a professional photographer in the pursuance of his or her profession, provided however, that the rifle or shotgun so used shall be properly registered and a special theatrical permit shall have been issued for the rifle, shotgun or assault weapon pursuant to regulations established by the commissioner.

**l.** Persons in possession of, using or transporting rifles which have been issued by the director of civilian marksmanship of the department of the army, pursuant to the provisions of ten U.S.C., section 4307-4309, unto a civilian rifle club, or unto a rifle team representing an educational institution, provided that such persons are members in good standing of an accredited civilian rifle club, or are connected as students or coaches with such educational institution, shall not be required to obtain a certificate of registration for such rifle. This exemption shall not apply to assault weapons.

**m.** Any resident of the city of New York acquiring a rifle or shotgun outside the city of New York shall within seventy-two hours after

bringing such weapon into the city make application for a rifle and shotgun permit, if such person does not already possess such permit, and for a certificate of registration. Pending the issuance of such permit and/or certificate of registration such resident shall deposit such weapon with a designated officer, at the police precinct in which such person resides, who shall issue a receipt therefor and said weapon shall be retained at the precinct until the resident shall produce the proper permit and registration certificate. This exemption shall not apply to assault weapons.

**n.** The provisions of section 10-303 of this chapter shall not apply to persons who are members of units of war veterans organizations, which organizations are duly recognized by the veterans administration, pursuant to § 3402 of title 38 of the United States Code, and who are specifically designated to carry rifles or shotguns by the commanders of said units, while actually participating in going to or returning from, special events authorized by the commissioner. Said rifles or shotguns, to be carried, must be the property of the unit of the war veterans organization, must be registered with the police commissioner pursuant to section 10-304 of this chapter and must be kept at the unit's headquarters or some central place as registered.

**o.** Nothing herein, shall exempt a member of a unit of a war veterans organization from possessing a permit issued pursuant to section 10-303, to carry rifles or shotguns which are not the property of a war veterans organization; nor shall that member be exempt from registering such rifles or shotguns, pursuant to section 10-304, which said member may personally own, possess or purchase.

**p.** Any gunsmith licensed pursuant to section 10-302 may engage in the business of gunsmith as authorized by such license.

**q.** Notwithstanding the provisions of this chapter prohibiting the possession or disposition of assault weapons, a special theatrical dealer may possess such weapons exclusively for the purpose of leasing such weapons to special theatrical permittees within the city and for theatrical purposes outside the city and may, in addition, with the written approval of the commissioner, permanently remove one or more assault weapons from the city.

#### **10-306. Disposition, purchase and possession of ammunition and ammunition feeding devices.**

**a.** No person, except a dealer in rifles and shotguns, may dispose of to another person an ammunition feeding device which is designed for use in a rifle or shotgun and which is capable of holding more than five rounds of rifle or shotgun ammunition, except in the manner provided in this chapter for the disposition of assault weapons, provided that a person in lawful possession of such ammunition feeding devices may dispose of such ammunition feeding devices to a dealer in rifles and shotguns. No dealer in rifles and shotguns may dispose of such ammunition feeding devices except to a person who is exempt from subdivision a of section 10-303.1 pursuant to section 10-305.

**b.** No person may possess an ammunition feeding device which is designed for use in a rifle or shotgun and which is capable of holding more than five rounds of rifle or shotgun ammunition, unless such person is exempt from subdivision a of section 10-303.1 pursuant to section 10-305, provided that a dealer in rifles and shotguns may possess such ammunition feeding devices for the purpose of disposition authorized pursuant to subdivision a of this section.

**c.** No ammunition suitable for use in a rifle of any caliber or for any shot-gun or ammunition feeding device which is designed for use in a rifle or shotgun and which is capable of holding no more than five rounds of rifle or shotgun ammunition shall be disposed of to any person who has not been issued a rifle and shotgun permit and a certificate of registration and who does not exhibit same to the dealer at the time of the purchase. In no event shall rifle or shotgun ammunition be disposed of to or possessed by any such person except for a shotgun, or for the specific caliber of rifle, for which the certificate of registration has been issued. No ammunition feeding device which is designed for use in a rifle or shotgun and which is capable of holding more than five rounds of rifle or shotgun ammunition shall be disposed of by a dealer in rifles and shotguns to any person who does not exhibit proof that he or she is exempt from subdivision a of section 10-303.1 pursuant to section 10-305.

**d.** It shall be unlawful for any person who is required to have a permit in order to possess a rifle or shotgun and who has not been issued such permit to possess rifle or shotgun ammunition or an ammunition feeding device which is designed for use in a rifle or shotgun.

**e.** A record shall be kept by the dealer of each disposition of ammunition or ammunition feeding devices under this section which shall show the type, caliber and quantity of ammunition or ammunition feeding devices disposed of, the name and address of the person receiving same, the date and time of the transaction, and the number of the permit and certificate exhibited or description of the proof of exemption exhibited as required by this section.

**f.** Notwithstanding any other provision of this section, ammunition and ammunition feeding devices which are designed for use in rifles or shotguns and which are capable of holding no more than five rounds of rifle or shotgun ammunition may be disposed of or possessed in the same manner and pursuant to the same requirements, rules and exemptions as apply to disposal or possession of rifles, shotguns or assault weapons under this chapter, provided that a special theatrical permittee may not possess live ammunition suitable for use in the rifle, shotgun or assault weapon such permittee is authorized to possess. Ammunition feeding devices which are designed for use in rifles or shotguns and which are capable of holding more than five rounds of rifle or shotgun ammunition may only be disposed of or possessed in the manner provided in this section.

**g.** Notwithstanding any other provision of this section, any person authorized to possess a pistol or revolver within the city of New York may possess ammunition suitable for use in such pistol or revolver and a dealer in firearms or dealer in rifles and shotguns may dispose of such ammunition to such person pursuant to subdivision i of section 10-131.

**h.** Dealers in rifles and shotguns and special theatrical dealers may lease ammunition feeding devices which are designed for use in rifles or shotguns to special theatrical permittees. Special theatrical permittees may possess such ammunition feeding devices subject to the same conditions as apply with respect to such permittee's possession of rifles, shotguns and assault weapons.

**10-307. Supply of forms.** The commissioner shall provide all dealers in rifles and shotguns with adequate supplies of all forms including applications for permits as required by this chapter, without charge.

**10-308. Vehicles, rooms, dwellings or structures; possession therein.** The presence of a rifle, or shotgun, or rifle or shotgun ammunition, in a vehicle, room, dwelling or structure, without a rifle and shotgun permit therefor and a certificate of registration therefor, or the presence of an assault weapon in a vehicle, room, dwelling or structure, shall be presumptive evidence of possession thereof by all persons occupying the vehicle, room, dwelling or structure at the time.

**10-309. Identifying marks.**

**a. Defacing.** Any person who alters, changes, removes, disfigures, obliterates or defaces the name of the maker, model, manufacturer's or serial number of a rifle, shotgun or assault weapon shall be in violation of this section.

**b.** Any rifle or shotgun sold or otherwise disposed of by a licensed dealer, which does not contain a manufacturer's or serial number, must have imbedded into the metal portion of such rifle or shotgun a dealer's number. Failure to so mark and identify any rifle or shotgun shall be a violation of this section.

**10-310 Violation.** Except as is otherwise provided in sections 10-302 and 10-303.1, violation of sections 10-301 through 10-309 shall be a misdemeanor punishable by a fine of not more than one thousand dollars or imprisonment of not more than one year or both, provided that the first violation of such sections involving possession of an unregistered rifle or shotgun or rifle or shotgun ammunition or an ammunition feeding device which is designed for use in a rifle or shotgun and which is capable of holding no more than five rounds of rifle or shotgun ammunition shall be an offense punishable by a fine of not more than three hundred dollars or imprisonment of not more than sixteen days, or both on condition that (a) the first violation of possession of an unregistered rifle or shotgun or rifle or shotgun ammunition or an ammunition feeding device which is designed for use in a rifle or shotgun and which is capable of holding no more than five rounds of rifle or shotgun ammunition is not in conjunction with the commission of a crime and (b) the possessor has not been previously convicted of a felony or a serious offense and (c) the possessor has not previously applied for and been denied a permit for such possession.

**10-311 Sale of weapons without safety locking device prohibited.**

**a.** It shall be unlawful for any person or business enterprise to dispose of any weapon which does not contain a safety locking device. For the purposes of this section and section 10-312:(1) weapon shall mean a firearm, rifle, shotgun, or assault weapon, as such terms are defined in section 10-301; or a machine gun, as defined in the penal law; and (2) a safety locking device shall mean a design adaptation or attachable accessory that will prevent the use of the weapon by an unauthorized user, and includes, but is not limited to, a trigger lock, which prevents the pulling of the trigger without the use of a key, or a combination handle, which prevents the use of the weapon without the alignment of the combination tumblers.

**b.** It shall be unlawful for any licensed manufacturer, licensed importer, or licensed dealer to dispose of any weapon in the city of New York unless it is accompanied by the following warning, which shall appear in conspicuous and legible type in capital letters, and which shall be printed on a label affixed to the weapon and on a separate sheet of paper included within the packaging enclosing the weapon:

"THE USE OF A LOCKING DEVICE OR SAFETY LOCK IS ONLY ONE ASPECT OF RESPONSIBLE FIREARM STORAGE. FIREARMS SHOULD BE STORED UNLOADED AND LOCKED IN A LOCATION THAT IS BOTH SEPARATE FROM THEIR AMMUNITION AND INACCESSIBLE TO CHILDREN AND OTHER UNAUTHORIZED PERSONS."

**c.** Any person who applies for and obtains authorization to purchase a weapon or otherwise lawfully obtains a weapon pursuant to chapters one or three of title ten of this code shall be required to purchase or obtain a safety locking device at the time he or she purchases or obtains the weapon.

**d. (1)** The police commissioner is authorized to promulgate rules setting forth the types of safety locking devices which will comply with this section in accordance with subdivision a of this section. The city of New York and its agencies, officers or employees shall not be liable to any party by reason of any incident involving, or the use or misuse of, a safety locking device that may have been purchased in compliance with such rules promulgated by the commissioner.

**(2)** The police commissioner shall provide written notice of the requirements of this section and section 10-312 to all persons who receive an official authorization to purchase a weapon and all persons applying for renewal of a license or permit issued pursuant to chapters one or three of title ten, including any rules promulgated under this subdivision. All persons applying for a license or permit or applying for the renewal of a license or permit pursuant to chapters one or three of title ten of this code, shall receive from the commissioner information concerning the importance of using a safety locking device while a weapon is not in use, and a warning that weapons should be stored unloaded and locked in a location that is both separate from their ammunition and inaccessible to children and any other unauthorized persons.

**e.** Any violation of subdivisions a or b of this section or any rule promulgated thereunder shall be a misdemeanor and triable by a judge of the criminal court of the city of New York and punishable by imprisonment of not more than thirty days or by a fine of not more than five hundred dollars, or both.

**10-312 Use of safety locking device required under certain circumstances.**

**a.** It shall be unlawful for any person who is the lawful owner or lawful custodian of a weapon, as that term is defined in section 10-311, to store or otherwise place or leave such weapon in such a manner or under circumstances that it is out of his or her immediate possession or control, without having rendered such weapon inoperable by employing a safety locking device. Any person who violates this subdivision shall be guilty of a violation, punishable by imprisonment of not more than ten days or by a fine of not more than two hundred fifty dollars, or both.

**b.** Any person who violates subdivision a of this section having previously been found guilty of a violation of such subdivision, or under circumstances which create a substantial risk of physical injury to another person, shall be guilty of a misdemeanor punishable by imprisonment of not more than thirty days or by a fine of not more than one thousand dollars, or both.

**c.** The provisions of this section shall not apply to weapons owned or lawfully possessed by a police officer, as such term is defined in section 1.20 of the criminal procedure law, or a federal law enforcement officer, as such term is defined in section 2.15 of the criminal procedure law.

[NYC Administrative Code current as of Aug. 22, 2001]

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**Code of the City of Rochester**

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**Chapter 47. Dangerous Articles**

**47-4. Storage and display of firearms, ammunition and explosives.**

**A. Purpose and intent.** The Council finds that it is necessary to regulate the commercial storage, possession and display of firearms, ammunition or explosives pursuant to § 139-d of the General Municipal Law in order to provide for the public health, safety and welfare of all persons in the City of Rochester. The Council finds that the location of such activities close to residential uses is not compatible with residential uses and can pose a danger to residents through fire or explosion or as a result of burglaries at such locations. The Council therefore intends to regulate the location of such activities and to place additional regulations upon those activities in order to assure that such activities are conducted in a safe manner. The restrictions found herein shall be in addition to restrictions found in Chapter 115, Zoning, of the Municipal Code, and whichever regulations are more restrictive shall be applicable to any potential location where such activities are to be conducted.

**B. Location.** The storage, possession or display of firearms, ammunition or explosives within a building occupied by a residential use, or within a building located within one hundred (100) feet of any residential use, which distance shall be measured from the closest point of the building, or portion thereof, used for the storage, possession or display of firearms, ammunition or explosives to the nearest point of the lot line of the property with a residential use, is hereby prohibited.

**C. Standards of design, construction and maintenance of buildings and structures in which firearms, ammunition or explosives are stored. ...**

**D. Visibility of interior to be maintained at all times.** The interior of any building or structure used for the storage, possession and display of firearms, ammunition or explosives shall be visible through any windows at all times when open for business, and no drapes or blinds should be used that would block the view of police or passersby who might observe unusual activity within the premises. The exterior of the premises shall be illuminated at night and during the hours when business is not conducted within.

**E. Combustible materials.** Combustible materials shall not be stored in any building or structure or that portion thereof used for the storage, possession and display of firearms, ammunition or explosives.

**F. Fire-extinguishing equipment.** Fully operable listed fire-extinguishing equipment shall be maintained in any building or structure used for the storage, possession and display of firearms, ammunition or explosives and made easily accessible.

**G. Smoking and open flames prohibited.** Smoking, matches, spark-producing devices and open flames shall be prohibited in any building or structure or that portion thereof used for the storage, possession and display of firearms, ammunition or explosives.



## **H. Standards of security for storage of firearms, ammunition or explosives.**

**(1) Storage of ammunition and explosives.** All ammunition and explosives shall be stored in compliance with 9 NYCRR 1176 et seq. and 12 NYCRR 39 et seq. Further, all ammunition when being displayed shall be kept in locked cases or behind the counter in an area not accessible to the public.

**(2) Storage of firearms when open for business.**

**(a)** No firearms shall be stored, exhibited or displayed in windows of the premises.

**(b)** Firearms storage or inventory areas shall be physically separated from counter and display areas and access to these areas shall be carefully controlled.

**(c)** All firearm display cases shall be kept locked and secured at all times and not readily accessible to the public. All keys to such display cases shall not leave the control of authorized personnel.

**(d)** Trigger locks which disable firearms and prevent them from functioning must be locked to each firearm at all times, or the firearms must be secured in a locked case or be otherwise locked, or the firearms must be dispensed in an area behind the counter that is not accessible to the public. These requirements shall not apply to a firearm being shown to a customer, being repaired, or otherwise being worked on.

**(3) Storage of firearms when not open for business.** When not open for business, all firearms shall be stored in accordance with one of the following:

**(a)** All firearms shall be stored in a locked fireproof safe or vault located in the business premises;

**(b)** All firearms must be secured by a hardened steel rod or cable of at least one-eighth (1/8) inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a bolt cutter and the rod or cable shall be anchored in a manner that prevents the ready removal of the firearms from the premises; or

**(c)** All firearms shall be secured in a manner that prevents the ready removal of the firearms from the premises, as approved by the Chief of Police or the Chief's designee.

I. The regulations provided for herein shall not apply to the personal possession, use or ownership of firearms or ammunition therefor.

## **47-5. Firearms, shotguns, rifles and other dangerous weapons.**

**A. Purpose and intent.** The Council finds that violent crime is a serious problem in the city and firearms and other dangerous weapons are frequently used in the commission of crimes, particularly homicides and assaults. The possession of such weapons also often leads to accidental deaths and injuries. The possession and use of assault weapons and ammunition feeding devices for criminal purposes is increasing and poses a serious danger to public safety. The use of weapons by persons under the influence of drugs and/or alcohol can readily lead to serious injury or death. The possession of weapons in public facilities and places also poses a serious danger to public safety. The possession of toy or imitation weapons which substantially duplicate actual weapons poses a danger to the person possessing the weapon and to others. In order to promote and protect the health, safety and welfare of the public, the Council finds it necessary to place restrictions upon the possession and use of such weapons. The restrictions

imposed by this section are intended to be in addition to restrictions found in state law and are not intended to conflict with state law provisions.

**B.** As used in this section, the following terms shall have the meanings indicated:

**Air Gun** - [Note: This section was found unconstitutional.]

**Ammunition** - Explosives suitable to be fired from a firearm, machine gun, pistol, revolver, rifle, shotgun, assault weapon or other dangerous weapon.

**Ammunition Feeding Device** - Magazines, belts, feedstrips, drums or clips capable of being attached to or utilized with any center-fire rifle, shotgun or pistol which employs the force of the expanding gases from a discharging cartridge to chamber a fresh round after each single pull of the trigger which, in the case of a rifle or shotgun holds in excess of five (5) cartridges, or in the case of a pistol holds in excess of seventeen (17) cartridges.

**Assault weapon:**

**(1)** Any center-fire rifle or shotgun which employs the force of the expanding gases from a discharging cartridge to chamber a fresh round after each single pull of the trigger, and which is loaded or capable of being loaded with a combination of more than six (6) cartridges in the ammunition feeding device and chamber combined. For the purposes of this section, a weapon is capable of being loaded if it is possessed by one who, at the same time, possesses:

**(a)** In the case of a rifle, a fixed or detachable ammunition feeding device which is attached to or utilized with or capable of being attached to or utilized with such rifle and which has a capacity of more than five (5) cartridges; or

**(b)** In the case of a shotgun, an ammunition feeding device which is attached to or utilized with or capable of being attached to or utilized with such shotgun and which has a capacity of more than five (5) cartridges.

**(2)** A center-fire rifle or shotgun which employs the force of expanding gases from a discharging cartridge to chamber a fresh round after each single pull of the trigger, and which has:

**(a)** A flash suppressor attached to the weapon reducing muzzle flash;

**(b)** A grenade launcher;

**(c)** A sighting device making a target visible at night;

**(d)** A barrel jacket surrounding all or a portion of the barrel to dissipate heat therefrom; or

**(e)** A multi-burst trigger activator.

**(3)** Any stockless pistol grip shotgun.

**(4)** The following weapons manufactured prior to the effective date of this section. [Note: This section was found unconstitutional.]

**(5)** For purposes of this section, the term "assault weapon" shall not include any of the following:

**(a)** Any weapon which has been modified to render it permanently inoperable or permanently make it a device no longer defined as an "assault weapon";

**(b)** Weapons that do not use cartridges or shells;

**(c)** Manually operated bolt-action weapons, lever-action weapons, slide-action weapons or single-shot weapons;

**(d)** Multiple-barrel weapons, revolving-cylinder weapons except shotguns, weapons that use exclusively a rotary Mannlicher-style magazine; or

**(e)** Any antique firearm as defined in § 265.00 of the New York State Penal Law or any curio or

relic as defined under United States law which is possessed by a licensed collector in accordance with United States Law.

**Dispose Of** - To dispose of, give away, give, lease, loan, keep for sale, offer, offer for sale, sell, transfer or otherwise dispose of.

**Drug** - Any substance listed in § 3306 of the Public Health Law of the State of New York.

**Dwelling** - As defined in § 115-13 of the Municipal Code.

**Firearm** - Any pistol or revolver; or a shotgun having one (1) or more barrels less than eighteen (18) inches in length or any weapon made from a shotgun (whether by alteration, modification or otherwise) if such weapon as modified has an overall length of less than twenty-six (26) inches; or a rifle having one (1) or more barrels less than sixteen (16) inches in length or any weapon made from a rifle (whether by alteration, modification or otherwise) if such weapon as modified has an overall length of less than twenty-six (26) inches. For purposes of this definition, the length of the barrel on a shotgun or rifle shall be determined by measuring the distance between the muzzle and the face of the bolt, breech or breechlock when closed and when the shotgun or rifle is cocked; the overall length of a weapon made from a shotgun or rifle is the distance between the extreme ends of the weapon measured along a line parallel to the center line of the bore. Such definition, except as otherwise indicated, shall include both loaded and unloaded firearms, except that it shall not include any antique firearm as defined in federal or New York State law or any curio or relic as defined under United States law which is possessed by a licensed collector in accordance with United States law.

**Park** - As defined in § 79-1 of the Municipal Code.

**Possess** - Have physical possession or otherwise to exercise dominion or control over. The presence in an automobile of any firearm, rifle or shotgun which is openly visible is presumptive evidence of its possession by all persons occupying such automobile at the time such firearm, rifle or shotgun is found, except if such firearm, rifle or shotgun is found in a vehicle for hire.

**Public Place** - Any street, including the sidewalk portion thereof, park, playground, recreation area, cemetery or lot owned, leased, operated or controlled by or on behalf of any government, municipality or public authority or corporation within the boundaries of the city, which is generally accessible to the public, except grounds used for educational purposes.

**Public Facility** - Any building or facility owned, leased, operated or controlled by or on behalf of any government, municipality or public authority or corporation within the boundaries of the city, except buildings or facilities used for educational purposes.

**Rifle** - A weapon designed or redesigned, made or remade and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

**Shotgun** - A weapon designed or redesigned, made or remade and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

**C.** No person shall possess a loaded or unloaded firearm, rifle, shotgun or air gun, or a dagger, dangerous knife, dirk, razor or stiletto, in a public place or public facility in the city. This prohibition shall not apply to:

(1) A police officer or peace officer authorized to possess the same;

(2) A government employee or licensed security guard authorized or required by employment or office to possess the same while acting within the scope of such employment;

(3) A person in the military service of the State of New York or the United States when duly authorized to possess the same;

(4) A person transporting a rifle or shotgun in a motor vehicle in the city in accordance with the provisions of § 11-0931, Subdivision 2, of the New York State Environmental Conservation Law, or otherwise transporting an unloaded rifle, shotgun or air gun in the city, provided that the same is completely enclosed or contained in a nontransparent carrying case and either:

(a) Said carrying case is locked; or

(b) A locking device is attached to the weapon and locked in a manner so as to prevent the weapon from being fired;

(5) An authorized person who, for the purpose of shooting practice, possesses a weapon at an established target range in a public place other than a park or public facility;

(6) A person voluntarily surrendering the same in accordance with the provisions of § 265.20 of the Penal Law; or

(7) Possession of a firearm by a person licensed to carry a firearm pursuant to § 400.00 of the Penal Law or possession or transportation by a gunsmith or dealer in firearms in accordance with a license issued by the State of New York or the United States, except that this subsection shall not apply in a park or a public facility other than a parking garage.

**D.** No person shall store a firearm, rifle, shotgun or air gun in a dwelling in the city unless said firearm, rifle, shotgun or air gun is completely enclosed or contained in a nontransparent locked carrying case or in a locked gun rack, cabinet, closet or safe, or a locking device is attached to the weapon and locked in a manner so as to prevent the weapon from being fired. This requirement shall not apply to a rifle, shotgun or licensed firearm carried on the body of the owner or within such close proximity of the owner that the owner can retrieve it as quickly and easily as if it were carried on the owner's body.

**E.** No person shall dispose of any firearm, rifle, shotgun, air gun or ammunition in the city. This prohibition shall not apply to:

(1) A gunsmith or dealer in firearms duly licensed by the State of New York or the United States;

(2) A person disposing of the same to a gunsmith or dealer in firearms duly licensed by the State of New York or the United States;

(3) A person voluntarily surrendering the same in accordance with the provisions of § 265.20 of the Penal Law;

(4) A person disposing of a licensed firearm in accordance with law;

(5) Disposition by intestate or testamentary bequest; or

(6) A person disposing of a rifle, shotgun, air gun or ammunition to a family member.

**F.** No person shall possess an assault weapon or an ammunition feeding device in the city. This prohibition shall not apply to:

(1) A police officer or peace officer authorized to possess the same;

(2) A person in the military service of the State of New York or the United States when duly authorized to possess the same;

(3) A person voluntarily surrendering the same in accordance with the provisions of § 265.20 of the Penal Law; or

(4) A gunsmith or dealer in firearms duly licensed by the State of New York or the United States for weapons to be used by police officers or persons in the military service or for delivery outside of the city.

**G.** No person shall dispose of an assault weapon or ammunition feeding device in the city. This prohibition shall not apply to:

(1) A person voluntarily surrendering the same in accordance with the provisions of § 265.20 of the Penal Law; or

(2) A gunsmith or dealer in firearms duly licensed by the State of New York or the United States for weapons to be used by police officers or persons in the military service or for delivery outside of the city.

**H.** No person shall carry a firearm, shotgun, rifle or air gun in the city while such person has one-tenth of one per centum (1/10 of 1%) or more by weight of alcohol in the person's blood as shown by chemical analysis of the person's blood, breath, urine or saliva.

**I.** No person shall carry a firearm, shotgun, rifle or air gun in the city while in an intoxicated condition.

**J.** No person shall carry a firearm, shotgun, rifle or air gun in the city while the person's ability to safely carry such weapon is impaired by the use of a drug.

**K.** Any person who carries a firearm, shotgun, rifle or air gun in this city shall be deemed to have given consent to a breath test and a chemical test of the person's breath, blood, urine or saliva for the purpose of determining the alcoholic or drug content of the person's blood, provided that any test is administered at the direction of a police officer having reasonable grounds therefor. ...

**L.** [Note: This section was found unconstitutional.]

**M. Discharge of weapons; permits. ...**

**N.** The owner of a firearm, shotgun, rifle, assault weapon, machine gun or submachine gun, which becomes lost or stolen, shall report the loss or theft to the Rochester Police Department within 24 hours after the loss or theft is discovered or reasonably should be discovered. The owner of such a weapon shall store the weapon in a safe and secure manner as required in Subsection D of this section and shall check such weapon at least once each week, or immediately upon returning to the city if the owner is absent from the city for more than one week. Failure to perform such a check shall not be a defense to a prosecution for a violation of this subsection.

**O.** Notwithstanding the penalties contained in § 47-8, a violation of any provision of this section shall be punishable by a fine not to exceed one thousand dollars (\$1,000.) or by imprisonment not to exceed one hundred eighty (180) days, or by both such fine and imprisonment. ....

[Code of the City of Rochester current as of Oct. 1, 2001]

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## Laws of Suffolk County

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### Chapter 233. Bullets, Armor-Piercing

**233-1. Purpose.** It is the intent of the Suffolk County Legislature to restrict the possession, disposition and use of certain handgun bullets that are designed primarily for the purpose of armor penetration so as to give law enforcement personnel a reasonable degree of protection from penetration of body armor. This chapter is not intended to restrict the availability of ammunition for personal defense, sporting or hunting purposes.

**233-2. Definitions.** As used in this chapter, the following terms shall have the meanings indicated:

**Body Armor** - Commercially available soft, bullet-resistant apparel with a penetration resistance equal to or greater than body armor classified as Threat Level Class II that complies with New York State Industrial Code Rule 55 or National Institute of Law Enforcement and Criminal Justice Standard 0101.01, dated May 1978.

**Dealer** - Any person engaged in the business of selling ammunition at wholesale or retail who is licensed under Chapter 44 of Title 18 of the United States Code.

**Dispose Of** - Dispose of, give, give away, loan, offer for sale, sell, transfer and otherwise dispose of, except to police or military units.

**Handgun** - A firearm originally designed to be fired by the use of a single hand.

**Person** - Natural person, firm, partnership, corporation or company.

**Restricted Handgun Bullet** - A handgun projectile that is capable of penetrating armor, including body armor as defined herein, and is comprised of a projectile whose composition includes any components having a hardness of 70 or greater on the Rockwell B hardness scale, specifically the Czechoslovakian manufactured 9-millimeter; and all KTW teflon-coated projectiles.

### 233-3. Prohibited acts.

**A.** Any person who, with intent to injure or kill, or whoever, during and in relation to the commission of a crime of violence for which he may be prosecuted in court, including a felony which provides for an enhanced punishment if committed by the use of a dangerous weapon or device, uses or carries any handgun loaded with armor-piercing ammunition, as defined herein, shall, in addition to the punishment provided for the commission of such felony, be sentenced to a term of imprisonment for not less than six months.

**B.** No dealer shall dispose of any restricted handgun bullet or bullets in Suffolk County, except to police or military units.

**233-4. Penalties for offenses.** Any person convicted of violating this chapter shall be deemed guilty of a misdemeanor punishable by a fine not exceeding \$1,000 or by imprisonment for not more than six months, or by both such fine and imprisonment. Notwithstanding any other provision of law, the court shall not suspend the sentence of any person convicted of a violation of this chapter nor place him on probation, nor shall the term of imprisonment run concurrently with any other term of imprisonment, including that imposed for the felony in which the armor-piercing handgun ammunition was used or carried. No person sentenced under this section shall be eligible for parole.

## Chapter 345. Licensed Occupations Article V. Dealers in Secondhand Articles

**345-47. Definitions.** As used in this article, the following terms shall have the meanings indicated:

**Antique Firearms** - Any unloaded muzzle-loading pistol or revolver with a matchlock, flintlock, percussion cap or similar type of ignition system, or a pistol or revolver which uses fixed cartridges which are no longer available in the ordinary channels of commercial trade.

**Dealer in Secondhand Articles:**

**A.** Any person, corporation, partnership or other entity and its employees that, as a business, deals in the purchase or sale of the following secondhand articles:

- (1) Antique firearms.
- (2) Rifles.
- (3) Shotguns. ...

**B.** "Dealer in secondhand articles" shall not include any organizations formed for charitable purposes, which accept donations of secondhand articles and resell them to raise funds for purposes consistent with the formation of the organization, nor any persons, corporations, partnerships or other entities and their employees that, as a business, are principally engaged in the service and/or repair of electronic equipment or component parts thereof and who, from time to time, sell electronic equipment or component parts thereof, which have been left for repair and later abandoned.

**Department** - The Department of Consumer Affairs.

**Proper Identification** - Identification documents that contain the person's name and either a photograph or a physical description of said person. Social security cards, draft registration cards, voter registration cards and comparable documents shall not be considered sufficient identification for the purpose of this article.

**Secondhand Article** - An article or object which:

- A.** Has been previously sold at retail; or
- B.** Has been previously used or is not in a new condition.

**Secondhand Articles Establishment** - Any shop, store, residence, place or premises from which a dealer in secondhand articles conducts his business.

**345-48. License required; display**

**A.** No person shall engage in any business as a dealer in secondhand articles without obtaining a license therefor from the office in accordance with and subject to the provisions of this article and Article I.

**B.** A licensee shall display the license obtained pursuant to this article in the establishment. If a licensee shall maintain more than one establishment within the County of Suffolk, he shall obtain duplicate licenses. The fee for duplicate licenses are set forth in § 345-49B.

**C.** No applicant for a license renewal shall have any outstanding judgment for child support against him or her, or be in arrears in child-support payments as determined by official court records or official government records, at the time an application is filed for such license renewal. ...

**345-49. Fees.**

**A.** An application fee of \$25 shall accompany each application for a dealer in secondhand articles license.

**B.** The fee for a duplicate license for an additional dealer in a secondhand articles establishment shall be \$15 per annum.

**C.** The fee for a dealer in secondhand articles license or renewal thereof shall be \$100 per annum.

**345-50. Required records.**

**A.** Each licensee shall keep records, legibly written in English, in a bound book. Each entry

shall be made in ink at the time of each transaction, shall be serially numbered and shall include:

(1) An accurate account and description of the article or thing bought, including but not limited to the make, model, color and serial number when present.

(2) The amount paid for the article.

(3) The date of transaction.

(4) The name, home residence, date of birth, sex and race of the person selling the items.

(5) The type of identification produced by the person selling the article.

**B.** No alterations or erasures are to be made in said book. Erroneous entries are to have a simple line drawn through them and the corrected entry made on the next line.

**C.** The book and records shall be retained in the possession of the licensee for at least three years.

**D.** A written receipt shall be issued to the seller with the serial number of the transaction and the information required in Subsections A, B and C of this section.

**345-51. Inspection of records and books.**

All records and books required to be kept pursuant to this article shall be open for inspection by the Department of Consumer Affairs, the Police Commissioner, a Chief of Police or any officer or employee duly authorized by them.

**345-52. Prohibited acts.**

**A.** No article purchased by a dealer in secondhand articles shall be sold or otherwise disposed of until the expiration of at least 15 business days from the date of purchase.

**B.** All articles subject to this holding period shall be available for inspection by the Commissioner of the Department of Consumer Affairs, the Police Commissioner, the Chief of Police or any officer duly authorized by them.

**C.** Purchases or sales between licensed secondhand dealers shall be exempt from the provisions of this section only if evidence of full compliance with all provisions and conditions set forth in this article is obtained by the purchasing secondhand dealer from the selling secondhand dealer in the form of a receipt. This receipt shall be retained by the purchasing secondhand dealer for the period required by § 345-50C hereof.

**D.** No article shall be purchased from a person who is unable to produce proper identification.

**E.** The acts enumerated in this section are not exclusive. Article I of this chapter also applies.

**F.** No article shall be purchased from a person under the age of 18 without the written consent of his parent or guardian.

**345-53. Required reports.** Upon request, every person licensed as a dealer in secondhand articles shall report to the Commissioner of the Department of Consumer Affairs, Police Commissioner or Chief of Police, on forms supplied by the Police Department, the information described in § 345-50 of this article.

**345-54. Temporary license pending issuance of permanent license.**

**A.** The Department shall issue a temporary license to any applicant for a dealer in secondhand articles license if the Department has not, within 30 days after receipt of the application for such license, approved or disapproved such application.

**B.** The temporary license shall be valid for a period of 90 days. If within such ninety-day period the Department shall have failed to approve or disapprove the application, the Department shall then issue a regular license to the applicant. If the application is approved

during the term of the temporary license, the Department shall then issue a regular license to the applicant.

**C.** The fee for a regular license shall be \$100 per annum.

**D.** A regular license issued pursuant to the provisions of Subsection B shall expire on the last day of the 12th month following the issuance of the temporary license.

[Laws of Suffolk County current as of Oct. 25, 2001]

## Code of the City of Yonkers

### Chapter 59. Fire Code Article IV. Explosives

**59-54. Definitions.** Terms used in this article shall be defined as follows: ...

**Explosive** - Any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion. The term "explosive" shall include all material which is classified as Class A, Class B or Class C explosives by the Interstate Commerce Commission and includes but is not limited to dynamite, black blasting powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuse, fuse igniters, fuse lighters, squibs, cordeau detonant fuse, instantaneous fuse, igniter cord and igniters. ...

**Magazine** - Any building or structure approved for the storage of explosives. ...

**Small Arms Ammunition** - Includes any shotgun, rifle, pistol or revolver cartridges, percussion caps and primers. ....

**59-55. General requirements.**

**A.** The manufacture of explosives and small arms ammunition is prohibited in the City of Yonkers.

**B.** No person shall possess, keep, store, sell, offer for sale, give away, use, discharge, transport or dispose of in any manner any explosives within the City of Yonkers, except by the authority of a written license as provided in this article. ...

**D.** No person shall discharge any explosives, except small-arms ammunition and construction devices such as explosive rivets and explosive-driven pins or studs, for purposes other than blasting or demolition operations.

**E.** No person shall sell or give away any explosive, except small-arms ammunition and construction devices such as explosive rivets and explosive-driven pins or studs, to any person not in possession of a license to either possess, transport or use explosives as required by this article.

**F. Encasement.** Except while blasting, no person shall possess or store explosives, unless such explosives are completely enclosed or encased in tight metal, wooden or fiber containers. A person having possession or control of an explosive shall under no circumstances permit any grains or particles of it to remain on the outside of or about its container. Every container shall be plainly marked with the name of the explosive contained therein.

### Article V. Ammunition

**59-90. Definitions.** As used in this article, terms shall be defined as follows:

**Ammunition** - A metal or other shell containing a fulminate or containing black or smokeless powder for the purpose of propelling projectiles

or shot. The term shall also include black or smokeless powder packed for use as a propelling charge or for saluting purposes.

**Small-Arms Ammunition** - Any shotgun, rifle, pistol or revolver cartridges, and shall include percussion caps and primers.

**59-91. Manufacture prohibited.** It shall be unlawful to manufacture ammunition or small-arms ammunition in the City of Yonkers.

**59-92. Power machinery prohibited.** It shall be unlawful for any person to load ammunition or small-arms ammunition by power machinery in the city.

**59-93. Permit for storage and sale.**

**A.** It shall be unlawful for any person to store or sell or offer for sale any ammunition or small-arms ammunition within the city without a permit from the Fire Commissioner.

**B.** The permit shall state the location of the premises, the maximum amount of ammunition to be stored at any time and such other information as the Fire Commissioner may deem necessary.

**59-94. Application for permit.** Permits for the storage and sale of ammunition or small-arms ammunition may be issued by the Fire Commissioner upon written application giving in detail the following information:

**A.** The name and address of the applicant.

**B.** The location of the premises.

**C.** The nature of construction of the building.

**D.** Other purposes for which the building is used.

**E.** The nature of the business in which the applicant is engaged in such building.

**F.** The maximum quantity and description of the ammunition to be stored and sold.

**59-95. Permit fees.** For a permit allowing the storage and sale of ammunition or small-arms ammunition as provided in this article, the applicant shall pay an annual permit fee.

**59-96. Storage and sale in designated locations prohibited.** No permit for the storage and sale of ammunition or small-arms ammunition shall be issued for any of the following premises:

**A.** Premises which are occupied as a tenement house, school, theater or other place of public amusement or assembly.

**B.** Premises which are used as a drugstore, paint store, pawnshop or stationery store.

**C.** Premises which are artificially lighted by any means other than electricity.

**D.** Premises where cigars, cigarettes or tobacco are stored or kept for sale.

**E.** Premises where liquors are sold.

**F.** Premises where dry goods or other materials of a highly flammable nature are manufactured, stored or kept for sale.

**59-97. Storage of ammunition.**

**A.** The Fire Commissioner shall fix the maximum quantity of ammunition and small-arms ammunition to be stored in any premises for which a permit is issued, which quantity shall be stated in the permit. No permit shall be issued for the storage of ammunition or small-arms ammunition greater than the following:

**(1)** One hundred thousand (100,000) loaded shells containing shot for shotguns not exceeding No. 8 gauge.

**(2)** Two hundred thousand (200,000) cartridges for pistols.

**(3)** Two hundred thousand (200,000) cartridges for rifles, of a caliber not larger than fifty hundredths (.50) of an inch.

**(4)** One million (1,000,000) percussion caps or primers without anvils.

**B.** Ammunition and small-arms ammunition shall be kept out of the reach of the public. All

ammunition and small-arms ammunition that is in excess of what is allowed to be kept on shelves or showcases shall be stored in an approved metal cabinet or vault, the location of which shall be approved by the Fire Commissioner.

**59-98. Display and storage of ammunition restricted.** It shall be unlawful for the holder of a permit for the storage and sale of ammunition or small-arms ammunition to store or exhibit in the windows or doors of the premises covered by the permit any cartridges or shells containing explosives.

**59-99. Permit fee for use of blank cartridges.** The Fire Commissioner may issue a permit allowing the use of blank cartridges in connection with performances in duly authorized theaters or places of amusement or for saluting purposes. The applicant shall pay an annual permit fee, except that no fee shall be charged for a permit for saluting purposes issued to the Grand Army or any other military or patriotic body.

## Chapter 74. Firearms

**74-1. License required to sell air guns.** It shall be unlawful for any person to sell, offer to sell or have in his possession any air pistol or air rifle or similar instrument in which the propelling force is a spring or air, except that the sale of such instruments, if accompanied by delivery to a point without the city, and possession for such purpose shall not be unlawful if such person shall have secured an annual license from the Police Commissioner of the City of Yonkers authorizing such sale and possession.

**74-2. Record of sales.** All persons dealing in such instruments referred to in this chapter shall keep a record showing the name and address of each person purchasing such instrument or instruments, together with the place of delivery, and said record shall be open to inspection during regular business hours by the officers of the Police Department of the city.

**74-3. Issuance of license.** The Police Commissioner is hereby authorized to issue, in his discretion, upon payment of a license fee in the amount of ten dollars (\$10.), an annual license authorizing the sale and possession of such instruments for delivery to a point without the city.

**74-4. Pistol permit; registration; fee.** The Police Commissioner may also issue a permit for a spring-, gas- or air-operated pistol to any person who holds a current New York State pistol permit. Said pellet gun shall be registered in the same manner as all other pistols, and the cost for said permit shall be one dollar (\$1.).

**74-6. Rifles and shotguns; penalties for offenses.**

**A.** It shall be unlawful for any person to carry or possess a loaded rifle or shotgun, as those terms are defined in Penal Law § 265.00, in public within the city limits. Any violation of this subsection shall constitute a Class I offense.

**B.** It shall be unlawful for any person to carry or possess an unloaded rifle or shotgun, as those terms are defined in Penal Law § 265.00, in public within the city limits unless such rifle or shotgun is completely enclosed or contained in a nontransparent carrying case or a cover. Any violation of this subsection shall constitute a Class II offense.

**C.** The above provisions shall not apply to persons in the military service of the State of New York, when duly authorized by regulations issued by the Chief of Staff to the Governor to

possess the same, or to peace officers, as defined in § 1.20, Subdivision 33, of the Criminal Procedure Law, or to participants in special events when authorized by the Police Commissioner.

**D.** The above provisions shall not apply to persons possessing or carrying a rifle or shotgun at a rifle range for which a license has been obtained from the Police Commissioner or to persons possessing or carrying a rifle or shotgun on their own premises.

**74-7. Possession of imitation or inoperable guns, firearms and weapons prohibited.**

**A.** The City Council finds and declares that there exists a danger to life, person and property in the City of Yonkers, especially on city-owned and -operated property and in the city public schools, with the possession and/or use of guns, firearms and weapons which are a replica of and cannot be easily distinguished from actual guns, firearms and weapons. The possession and, at times, use by simply displaying one of these imitation and/or inoperable guns, firearms and weapons has caused damage to life, limb and property in the City of Yonkers since the Penal Law of the State of New York does not extend its coverage to this area. Through the exercise of the police power granted to municipal governments and in order to afford the residents of the City of Yonkers greater safety and to protect their general welfare from individuals, both adults and juveniles are prohibited from using imitation, toy and inoperable pistols, revolvers, guns and other weapons of any type that may be readily mistaken for real guns, pistols, revolvers or weapons which are used or could be usable for nefarious purposes or as threats or potential threats to life, limb and property.

**B.** This section is not intended to forbid or restrict the sale, possession or use of true and actual toy pistols, guns, revolvers or other weapons, provided that the same are not substantial duplicates of actual pistols, guns, revolvers or weapons in appearance.

**C.** It shall be unlawful for any person to possess or use or attempt to use any imitation, toy or inoperable pistol, revolver, gun, firearm or any other weapon which substantially duplicates an actual pistol, revolver, gun, firearm or other weapon unless said imitation, toy or inoperable item or instrument shall be colored in colors other than blue, black, grays, silver or aluminum, and further provided, if resembling a gun or other firearm, that the barrel of said item shall be closed with the same material of which the item itself is made for a distance of not less than one-half (1/2) inch from the front end of the barrel of said item.

**D.** The provisions of Subsection C shall not apply to possession or display of such an instrument by a licensed manufacturer or dealer of the same, used solely in connection with his or her business. Further, any said instrumentalities used in theatrical productions licensed in advance by the City of Yonkers shall also be exempted when possessed, displayed and used in connection with said licensed theatrical productions.

**E.** Any violation of this section shall constitute a Class I offense.

**74-8. Penalties for offenses.** Except as otherwise provided, any violation of this chapter shall constitute a Class II offense.

[Code of the City of Yonkers current as of May 14, 2000]